



New South Wales

Special Commission of Inquiry into LGBTIQ hate crimes

24 August 2023

Clint Cochrane
 Laboratory Manager, Forensic Biology/DNA
 Forensic and Analytical Science Service
 480 Weeroona Road
 LIDCOMBE NSW 2141

By email: [REDACTED]

Dear Mr Cochrane,

Special Commission of Inquiry into LGBTIQ hate crimes – Kenneth Brennan

I refer to the above Inquiry, and to my telephone call with Michele Franco on 21 August 2023.

Death of Kenneth Brennan

As you are aware, Kenneth Brennan died on or about 11 June 1995 at his apartment [REDACTED] Onslow Avenue, Elizabeth Bay. Mr Brennan suffered approximately 13 stab wounds inflicted by a person or persons unknown.

Crime scene officers located various exhibits at the scene including three used condoms (“condoms 1, 2 and 3”). Condom 1 was located on the rim of the toilet. Condoms 2 and 3 were located at the crime scene immersed in the toilet water.

Forensic Testing

A number of exhibits were forensically tested by FASS as part of the initial NSW Police Force investigation into Mr Brennan’s death, and again as part of a forensic review undertaken by Strike Force Skarratt (2016-2019).

Please find **enclosed** the statement of Ms Franco dated 24 January 1996, which records that, in 1996, she examined condoms 2 and 3. In that statement, Ms Franco records that semen was not detected on condoms 2 and 3, and that DNA testing of those condoms was unsuccessful.

I note that in the same statement, Ms Franco indicated that a spermatozoon was detected on condom 1 (page 4). As you are aware, results from subsequent DNA testing conducted by FASS on condom 1 in 2017 identified a mixed profile containing a partial unknown DNA profile referred to as Unknown Male ‘B’ profile.

Request for Further Forensic Testing

The Inquiry requests that further forensic analysis be conducted on condoms 2 and 3, or swabs of those condoms, with view to:

Special Commission of Inquiry into LGBTIQ hate crimes

1. locating a DNA profile or profiles on those exhibits; and
2. if successful, identifying the DNA profile/s on those exhibits.

If any DNA profiles are located on those exhibits, the Inquiry would be grateful if those profiles could please be compared to profiles in any relevant database available to FASS, including the National Criminal Investigation DNA database, and against Mr Brennan's DNA profile.

Request for expert certificate

The Inquiry seeks an expert certificate setting out the analysis undertaken and results in relation to the above. Where particular tests and/or analysis cannot be undertaken, or are considered to be of no utility, please refer to this in the certificate.

It would be of assistance to the Inquiry if the certificate, could be provided to the Inquiry by **8 September 2023**. In the event that you anticipate any difficulty with this timeframe, please let me know as soon as possible.

Thank you for your ongoing for your assistance to the Inquiry.

Please do not hesitate to contact Hermione Nicholls on [REDACTED] if you have any queries in relation to this matter.

Yours faithfully,



Hermione Nicholls
Senior Solicitor
For Solicitor Assisting the Inquiry

Encl. (1)

06-AUG-2004 09:43 FROM FORENSIC BIOLOGY

TO

188358733 P.02

190

REF: FS 95/444

DEPARTMENT OF HEALTH
FORENSIC BIOLOGY LABORATORY
DIVISION OF ANALYTICAL LABORATORIES
JOSEPH STREET
LIDCOMBE

24 January 1996

RE: Alleged Murder of Ken BRENNAN

I, Michele Anne FRANCO,

hereby certify as follows:

- (1) My scientific qualifications are Bachelor of Science from the University of New South Wales.
- (2) The following items in connection with this matter were received on the twenty-eighth day of June, 1995, from Mr. G. Allen, courier of East Sydney Crime Scene Unit.
 - 1. Blood)
 - 2. Oropharangeal swab and smear)
 - 3. Rectal swab and smear)
 - 4. Fingernail clippings)
 - 5. Hair from left hand) E 50419
 - 6. Hair from right hand)
 - 7. Vertebral marrow)
 - 8. Skeletal muscle)
 - 9. Blood - NP215
 - 10. Blood - NP214
 - 11. Blood - NP189
 - 12. Condom No. 3
 - 13. Towel
 - 14. Swab No. 1 - nth side of bedroom door
 - 15. Swab No. 2 - nth side of louvre door
 - 16. Swab No. 3 - east side of hallway

- 2 -

17. Swab No. 4 - near phone plug - eastern wall of hallway
18. Swab No. 5 - kitchen floor
19. Swab No. 6 - east side of counter above dishwasher
20. Swab No. 7 - west wall of main bedroom
21. Swab No. 8 - N/W wardrobe door
22. Swab No. 9 - western side of eastern wardrobe
23. Kitchen knife blade
24. Hair from main bed
25. Drain water - kitchen sink
26. Drain water - bathroom
27. Underpants - main bedroom
28. Frying pan

On the twenty-sixth day of July, 1995, the following further items in connection with this matter were received from Mr. G. Allen.

29. Pubic Hair)
30. Head Hair) **NP215**

31. Pubic Hair)
32. Head Hair) **NP214**

33. Pubic Hair)
34. Head Hair) **NP189**

On the twenty-second day of August, 1995, the following further items in connection with this matter were received from Mr. G. Allen.

35. Head Hair - E 50419
 36. Condom No. 1
 37. Condom No. 2
- (3) These items have been examined with the following results:
Human blood was detected on items 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 27 (Area 1) and 28.

.../3
mf

Grouping tests were carried out on the blood, along with the blood samples (items 1, 9, 10 and 11) from Ken BRENNAN, NP215, NP214 and NP189 respectively. The results are as follows:

| ITEM | Blood Grouping System | | Approximate occurrence in the general population |
|------------------------------|-----------------------|-------|--|
| | PGM | Gc | |
| 1. Blood - BRENNAN | 2+1+ | 1F-1S | 1 in 28 |
| 9. Blood - NP215 | 2+1+ | 1S | 1 in 13 |
| 10. Blood - NP214 | 1+1- | 2-1S | 1 in 19 |
| 11. Blood - NP189 | 1+1- | 1S | 1 in 17 |
| 13. Towel - two areas | 2+1+ | 1F-1S | 1 in 28 |
| 14. Swab No. 1 | 2+1+ | 1F-1S | 1 in 28 |
| 15. Swab No. 2 | 2+1+ | 1F-1S | 1 in 28 |
| 16. Swab No. 3 | 2+1+ | 1F-1S | 1 in 28 |
| 17. Swab No. 4 | 2+1+ | 1F-1S | 1 in 28 |
| 18. Swab No. 5 | 2+1+ | 1F-1S | 1 in 28 |
| 19. Swab No. 6 | * | 1F-1S | 1 in 6 |
| 20. Swab No. 7 | 2+1+ | 1F-1S | 1 in 28 |
| 21. Swab No. 8 | 2+1+ | 1F-1S | 1 in 28 |
| 22. Swab No. 9 | 2+1+ | 1F-1S | 1 in 28 |
| 23. Knife blade | 2+1+ | 1F-1S | 1 in 28 |
| 28. Frying pan - three areas | 2+1+ | 1F-1S | 1 in 28 |

* Insufficient

A preliminary or 'screening' test for blood was positive on the oropharangeal and rectal swabs (items 2 and 3) and on the hair from the left hand (item 5).

DNA typing was carried out on the four blood samples (items 1, 9, 10 and 11) and on the following:-

Item 5 Hair (after washing, to remove blood)

Item 27 (area 1). Bloodstain on outside front of underpants.

Item 27 (area 2). A clear, non-seminal stain on inside front of underpants.

The results are as follows:

| ITEM | DNA TYPE | | | | | |
|-------------------------|-----------|------|------|------|------|----|
| | DQA | LDLR | GYPA | HBGG | D7S8 | Gc |
| 1. Blood - BRENNAN | 3,4 | AB | AA | BB | BB | BC |
| 9. Blood - NP215 | 1,1,4 | * | * | * | * | * |
| 10. Blood - NP214 | 2,4 | * | * | * | * | * |
| 11. Blood - NP189 | 1,1,2 | * | * | * | * | * |
| 5. Hairs - L hand | 3,4 | AB | AA | BB | BB | BC |
| 27. Underpants - Area 1 | 3,4 | AB | AA | BB | BB | BC |
| Area 2 | 1,2,4,2,3 | * | * | * | * | * |

* Not Attempted

..../4
mf

06-AUG-2004 09:44 FROM FORENSIC BIOLOGY

TO

188358733 P.05

- 4 -

I conclude that the hair from the left hand and the blood stain on area 1 of the underpants could have originated from BRENNAN, but not **NP215**, **NP214** or **NP189**. DNA of this type occurs in approximately 1 person in 12,300 of the general population. The DNA from area 2 on the underpants originates from more than one person. The major component of the DNA originates from someone other than BRENNAN, **NP215**, **NP214** or **NP189**.

A spermatozoon was detected on condom no. 1 (item 36).


Semen was not detected on the oropharangeal swab and smear (item 2), the rectal swab and smear (item 3), the condom no. 3 (item 12), the underpants (item 27) or the condom no. 2 (item 37).

DNA testing of two of the condoms, items 36 and 37, was unsuccessful. There were no obvious differences between the hair from the main bed (item 24) and the hair sample from BRENNAN (item 35).

The hair from the right hand (item 6) has been retained and can be analysed at a later date if required.

Blood was not detected in the drainwater samples (items 25 and 26).

The fingernail clippings (item 4) were not examined.

Biologist's Signature: Date: 25/1/96

RE: FS 95/444

5/ao

DEPARTMENT OF HEALTH
FORENSIC BIOLOGY LABORATORY
DIVISION OF ANALYTICAL LABORATORIES
JOSEPH STREET
LIDCOMBE

16 August 1996

ADDITIONAL REPORT
RE: Alleged Murder of Ken BRENNAN

-----▽-----▽-----▽-----▽-----▽-----▽-----▽-----

I, Michele Anne FRANCO,

hereby certify as follows:

- (1) My scientific qualifications are Bachelor of Science from the University of New South Wales.
- (2) The following further items in connection with this matter were received from Mr. P. SHELTON Storeman/Courier of the East Sydney Police on the ninth day of February, 1996.

| | | | |
|-----|------------|---|--------------|
| 38. | Blood | } | NP188 |
| 39. | Head hair | } | |
| 40. | Pubic hair | } | |

| | | | |
|-----|------------|---|--------------|
| 41. | Blood | } | NP190 |
| 42. | Head hair | } | |
| 43. | Pubic hair | } | |

The following further items in connection with this matter were received from Mr. G. ALLEN, Police Courier of the East Sydney Police on the tenth day of May, 1996.

| | | | |
|-----|----------------|---|--------------|
| 44. | Blood | } | NP204 |
| 45. | Hair - bandage | } | |
| 46. | Scalp hair | } | |

...../2
MAF

(3) These items have been examined with the following results:

Grouping tests were carried out on the blood samples from **NP188** **NP190** and **NP204** (items 38, 41 and 44) and the results are as follows:

| ITEM | TYPING SYSTEM | | | | | | | |
|--------------------------|---------------|------|----------|------|------|------|------|----|
| | PGM | Gc | DNA TYPE | | | | | |
| | | | DQA | LDLR | GYPA | HBGG | D7S8 | Gc |
| 38. Blood - NP188 | 1+ | 2-1S | 2,4 | AB | AA | BB | AA | AC |
| 41. Blood NP190 | 2+ | 2-1F | 1,2,3 | BB | AA | AB | AA | AB |
| 44. Blood - NP204 | 2+1+ | 1S | * | * | * | * | * | * |

*Not attempted

The major component of the DNA from area 2 of the underpants (item 27) could not have originated from **NP188** or **NP190**

The blood sample from **NP204** has been stored for DNA testing if required.

Biologist's Signature: *mfm*

Date: 16/8/06



Institute of Clinical Pathology and Medical Research

Division of Analytical Laboratories

Joseph Street, Lidcombe
(Weeroona Rd Entrance)
P.O. Box 162 Lidcombe
N.S.W. 2141 Australia

Telephone: [REDACTED]
Facsimile: [REDACTED]

REF: FS 99/388 (FS95/444)

2ND ADDITIONAL REPORT
RE: Alleged Murder of Ken BRENNAN

I, Michele Anne FRANCO,

hereby certify as follows:

- (1) My scientific qualifications are Bachelor of Science from the University of New South Wales.
- (2) The following further items in connection with this matter were received from Detective Sergeant Warren LEE on the twelfth day of March, 1999.

FS95/444 - 47 Blood }
 FS95/444 - 48 Hair } **NP200**
 FS95/444 - 49 Saliva }

The following further item in connection with this matter was resubmitted by Detective Sergeant Warren LEE, on the twenty-first day of April, 1999.

FS95/444 - 27 Underpants - main bedroom

- (3) DNA analysis was conducted on the underpants from the main bedroom (item 27) and on the blood samples labelled from **NP200** (item 47) and Ken BRENNAN (item 1).

1/2 mf

06-AUG-2004 09:45 FROM FORENSIC BIOLOGY

TO

188358733 P.08

REF: FS 99/388

DNA testing on an area of the underpants waistband established that the DNA originated from more than one individual.

Both **NP200** and BRENNAN are excluded as contributing DNA to this mixture.

DNA testing on further areas of the underpants is available if required.

Biologist's Signature: Date: 10/9/09