



Special Commission of Inquiry into LGBTIQ hate crimes

SUBMISSIONS OF COUNSEL ASSISTING

22 June 2023

IN THE MATTER OF JAMES MEEK

Introduction

1. These submissions are filed on behalf of Counsel Assisting the Special Commission of Inquiry into LGBTIQ hate crimes (**Inquiry**). In addition to these submissions, Counsel Assisting has filed confidential submissions in this case.

Summary of matter

Date and location of death

2. James Meek (DOB: 5 August 1943; 51 years old) died on Tuesday, 7 March 1995 in his flat at the Northcott Flats on Belvoir Street, Surry Hills.

Circumstances of death

3. The circumstances surrounding Mr Meek's death can only be fully understood if the evidence concerning his movements in the days before his death is set out in some detail. That evidence is set out at [117]-[187] below.
4. The last occasions on which there is evidence of Mr Meek being alive were 10.30am on Tuesday, 7 March 1995, when he made a call to a radio show, and between 11:30am and midday on the same day, when he was seen by a neighbour, **NP219**, walking his dogs. His body was found on Wednesday, 8 March 1995 after concerned neighbours contacted the NSW Police Force (**NSWPF**).
5. Michael Heatley was charged with Mr Meek's murder. He was committed for trial, but a directed acquittal was ordered after the close of the prosecution case.¹ The events of the morning of Tuesday, 7 March 1995 assumed a great deal of significance at the trial of Mr Heatley. In the course of the trial a number of witnesses who had provided written statements were cross-examined, and some

¹ *R v Heatley* (Unreported, Supreme Court of New South Wales, Ireland J, 4 December 1998).

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concessions were made as to the accuracy of their accounts of the day. These concessions formed the basis of the directed acquittal.

Findings of post-mortem examination

6. A post-mortem was conducted on 11 March 1995. Mr Meek had injuries including impacts to the head, a substantial blow to the left forehead and impact to left and right mandible, impact to the right chest and left flank, bruising to the back of his left hand and fourth knuckle of his left ring finger and bruising to the back of his head and injuries to his tongue. There were no skull fractures. However, there was subarachnoid and subdural haemorrhage.²
7. The cause of death was found to be blunt force head injuries, consistent with an assault.³ The forensic pathologist who conducted the post-mortem examination suggested that the injuries to Mr Meek's head could have been caused by stomping.⁴
8. The post-mortem examination noted bruising to Mr Meek's left hand. There was a 30mm red bruise on the back of his hand. There was a purple bruise on his left ring finger.⁵ There was a compression mark below the bruise. The forensic pathologist who conducted the post-mortem examination suggested that the compression mark "could have been caused by the presence of a ring that has been removed".⁶

Indicators of LGBTIQ status or bias

9. Mr Meek was a gay man. His family and many of his neighbours in the Northcott Flats knew about his sexuality. He was active in organisations within the LGBTIQ community. He volunteered at the 1995 Mardi Gras.⁷
10. Mr Meek was diagnosed with HIV in 1986, some nine years before his death.⁸
11. Mr Meek spoke openly and in some detail about his sex life.⁹ Mr Meek's friends and neighbours knew that he would habitually bring men home to his unit for casual sex. He was also known to seek sexual relationships with younger men.¹⁰

² Post-mortem Report of Dr Christopher Lawrence, 1 June 1995, 9 (SCOI.10004.00009).

³ Post-mortem Report of Dr Christopher Lawrence, 1 June 1995, 9 (SCOI.10004.00009).

⁴ R v Michael Alan Heatley – Trial Transcript, 16-25 November 1996, T244.10-24 (SCOI.82969).

⁵ Post-mortem Report of Dr Christopher Lawrence, 1 June 1995 (SCOI.10001.0095)

⁶ R v Michael Alan Heatley – Trial Transcript, 16-25 November 1996, T245.31-32 (SCOI.82969).

⁷ Statement of Carole King, 18 March 1995, [6] (SCOI.10002.00018).

⁸ Statement of Dr Alexander Beveridge, 27 March 1995, [5] (SCOI.10001.00166).

⁹ See, for example, Statement of Wayne Ruscoe, 14 March 1995, [8]-[14] (SCOI.10001.00143); Statement of Artur Bubis, 14 March 1995 (SCOI.10005.00074); Statement of **NP219** (28 March 1995) [7] (SCOI.10002.00037)

¹⁰ See, variously, Statement of Eric Eadie, 21 March 1995, [3]-[5] (SCOI.10402.00072); Statement of Kevin Marsh, 30 April 1995, [5] (SCOI.10002.00044); Statement of Jason Radford, 23 March 1995, [9] (SCOI.10019.00011)

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12. There are suggestions in the evidence that Mr Meek would, on occasion, offer homeless young men accommodation in exchange for sex. There are also allegations that Mr Meek was a paedophile and that he sought sexual relationships with underage boys.¹¹
13. It is important to take care not to countenance harmful stereotyping concerning gay men and paedophilia. The evidence concerning Mr Meek's interest in underage boys has not been tested, and is primarily hearsay.
14. In our submission, it is not necessary for any finding to be made concerning Mr Meek's alleged sexual activity with underage boys. The proposition of relevance is that there is evidence that Mr Meek was believed by some people to be a paedophile. This, in turn, is relevant to the question of possible motivations for Mr Meek's murder.
15. There are at least three plausible persons of interest in Mr Meek's death. Two were young men at the time of Mr Meek's death, and there is evidence that both young men may have had a sexual relationship with Mr Meek. Both men denied having a sexual relationship with Meek and there is evidence to suggest that both may have held homophobic attitudes. The third is a woman who also lived in the Northcott Flats. She had a relationship of apparent animosity with Mr Meek and had acted violently towards him before, as is set out at [35]-[36] below. As explained below, it is also possible that the homicide was perpetrated by a fourth, unknown person.
16. On 23 March 1995, the *Sydney Star Observer* and *Capital Q Weekly* reported that Police were investigating the matter as a gay hate killing: "probably more so than not at this stage".¹²

Persons of interest

NP220

17. NP220 (DOB: ██████████) was a 19-year-old resident of Northcott Flats at the time of Mr Meek's death. Police interviewed various residents of the Northcott Flats after Mr Meek's death. Various residents reported seeing Mr Meek argue with Mr NP220 in the week before Mr Meek's death.

¹¹ See, variously, Statement of Eric Eadie, 21 March 1995, [3]-[5] (SCOI.10402.00072); Statement of Kevin Marsh, 30 April 1995, [5] (SCOI.10002.00044); Statement of Jason Radford, 23 March 1995, [9] (SCOI.10019.00011)

¹² Kristy Machon, 'Bashed to Death: Gay Hate Murder', *Sydney Star Observer* (Sydney, 23 March 1995) (SCOI.10013.00048); 'No concrete leads in Meek murder', *Capital Q Weekly* (Sydney, 23 March 1995) (SCOI.84002).

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18. Kevin Marsh (another neighbour) reported seeing Mr Meek argue with a young man with blond hair on 1 March 1995, who was a resident of Northcott Flats. The description of the young man matched that of Mr [NP220]. He reported the following conversation:

[NP220] "You fucked me and you owe me money, give it to me".

Meek: "Keep the change".

[NP220] "It's not fucking enough, you're a fucking poofter and I want more".¹³

19. Mr Marsh said that he was under the impression that Mr [NP220] was "Jim's latest fuck as it was common knowledge that whoever was seen with Jim on a regular basis was his boyfriend. I was also under the impression that this male had a key to Mr MEEKS apartment and had been told by other persons who lived in Northcott that this was so".¹⁴ There is no other evidence to suggest that Mr [NP220] had a key to Mr Meek's apartment.
20. It is possible, of course, that Mr [NP220]'s claim that Mr Meek "fucked" him was non-sexual in nature. For example, Mr [NP220] may have been suggesting that Mr Meek had crossed him or cheated him in some way. Mr [NP220] had purchased a car from Mr Meek in around November 1994 for \$100. He had initially been going to pay \$500 for the car, but the car was stolen from the Northcott Flats car park and "ruined".¹⁵ It is possible that the altercation related to this transaction.
21. William Robertson reported seeing Mr Meek argue with Mr [NP220] on 5 March 1995. He reported that Mr [NP220] yelled at Mr Meek: "You owe me that money".¹⁶
22. Jason Radford reported seeing Mr Meek and Mr [NP220] argue about a week and a half before Mr Meek's death. He told police that he had heard rumours that Mr Meek owed Mr [NP220] money, possibly for sexual favours. Mr Radford had previously been charged with bashing Mr Meek, with a trial listed in July 1994. Mr Radford claimed that Mr [NP220] had approached him in Ward Park a couple of days before his trial: "he told me to keep away from Jim or he'll punch me up".¹⁷

¹³ Statement of Kevin Marsh, 30 April 1995, [6] (SCOI.10002.00044).

¹⁴ Statement of Kevin Marsh, 30 April 1995, [8] (SCOI.10002.00044).

¹⁵ Transcript of ERISP with [NP220], 23 March 1995 (SCOI.10012.00008), Q42-Q56.

¹⁶ Running Sheet 5/13/1 – Conversation with William Robertson, 30 April 1995 (SCOI.10002.00039).

¹⁷ Statement of Jason Radford, 23 March 1995, [4]-[6] (SCOI.10019.00011).

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23. Mr Lawrence also reported that: “there were some young blokes who lived at Northcott flats who Jim saw sometimes but I don’t think it was sexual. One of them was [NP220] about 19 or 20 old, over 6 foot, he has just bleached his hair from dark to blonde. He lived in [redacted] block”.¹⁸
24. The evidence of all four men suggested that Mr Meek and Mr [NP220] had some sort of relationship. Three of them suggested that the relationship may have been sexual. Two of them reported seeing Mr [NP220] argue with Mr Meek over money, and one of them reported rumours to the same effect.
25. Police interviewed Mr [NP220] on 23 March 1995, after attending and searching his flat.¹⁹
26. Mr [NP220] said that Mr Meek was “a pretty nice guy” and that they were “pretty good friends”. He said that he used to go to Meek’s flat sometimes and have coffee.²⁰ He said that he had known Mr Meek for about two years and that he had been to Mr Meek’s room twice.²¹ Mr [NP220] said that Mr Meek came to his home “plenty of times”.²²
27. Mr [NP220] denied having an argument with Mr Meek in the foyer of the Northcott Flats in the weeks prior to his death. He said that he had not spoken to Mr Meek for three weeks (which would, in fact, have been about a week before Mr Meek’s death, given the date of the interview). He said that the conversation was about going to Mr Meek’s flat to have a coffee.²³
28. Mr [NP220] could not recall where he may have been on Monday, 6 March 1996 or Tuesday, 7 March 1995.²⁴
29. Mr [NP220] denied ever having sexual relations with Mr Meek. He said that Mr Meek “tried to put an advance on me but I said no and he never tried ever again and that was when I first met him about 2 years ago”.²⁵ Mr [NP220] agreed that Mr Meek used to boast to him about his sexual activities. He said that this did not offend him “because [he] knew what sort of person he was”.²⁶
30. Mr [NP220] admitted that he was addicted to heroin. He said that he supported his habit by getting credit from his dealer and paying her back on his cheque day. He admitted that he had hocked property to fund his addiction, but denied that he had stolen property from his mother to do so.²⁷

¹⁸ Statement of Michael Lawrence, 11 March 1995, [28] (SCOI.10001.00140).

¹⁹ Transcript of ERISP with [NP220], 23 March 1995 (SCOI.10012.00008).

²⁰ Transcript of ERISP with [NP220], 23 March 1995, A18 (SCOI.10012.00008).

²¹ Transcript of ERISP with [NP220], 23 March 1995, Q21-A27 (SCOI.10012.00008).

²² Transcript of ERISP with [NP220], 23 March 1995, Q80-A80 (SCOI.10012.00008).

²³ Transcript of ERISP with [NP220], 23 March 1995, Q39-A40 (SCOI.10012.00008).

²⁴ Transcript of ERISP with [NP220], 23 March 1995, Q83-A86 (SCOI.10012.00008).

²⁵ Transcript of ERISP with [NP220], 23 March 1995, Q91-A91 (SCOI.10012.00008).

²⁶ Transcript of ERISP with [NP220], 23 March 1995, Q117-A119 (SCOI.10012.00008).

²⁷ Transcript of ERISP with [NP220], 23 March 1995, Q135-A147 (SCOI.10012.00008).

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31. Mr [NP220] denied assaulting or killing Meek.²⁸ Police appear to have accepted Mr [NP220]'s evidence as credible. Mr Marsh provided his evidence to Police after Mr [NP220] was interviewed, but there is no evidence that they pursued this line of investigation further after speaking to Mr [NP220].
32. The Inquiry conducted a private hearing with Mr [NP220].

Michael Heatley

33. Police searched Mr Meek's flat for fingerprints. By 11 May 1995, they had developed an identifiable fingerprint from a letter found on the table. The fingerprint belonged to Michael Heatley (DOB: 26/9/1976; then aged 18). Mr Heatley had an extensive criminal record. He was wanted for an attempted armed robbery in Tasmania, and for break, enter and steal offences in Port Macquarie.²⁹
34. By 4 June 1995, Police had located Mr Heatley in Devonport, Tasmania, where he was living with his sister and brother-in-law.³⁰

NP219

35. Ms [NP219] was a resident of the Northcott flats.³¹ She had a history of animosity with Mr Meek. Although they had been friends, the relationship deteriorated after Mr Meek failed to look after Ms [NP219] dog. Ms [NP219] enraged by Mr Meek's actions, held him off a balcony.³² Ms [NP219] later took the view that Mr Meek had killed her dog by running it over.³³ There was evidence (discussed at [71] below) that Ms [NP219] disliked gay men.³⁴ In addition, there was evidence that Ms [NP219] could become agitated and violent when under the influence of alcohol and drugs.³⁵
36. Ms [NP219] does not appear to have been seriously considered as a suspect. If her evidence is accepted, she was the last person known to have seen Mr Meek alive at around 11.30am on Tuesday, 7 March 1995, when she saw him walking his dogs. It may have been that the NSWPF did not pursue this avenue of investigation because Ms [NP219] told the NSWPF that she had an alibi: she had left Northcott flats to meet a friend for lunch. Alternatively, it may have been because Mr Heatley emerged as more compelling suspect. Ms [NP219] is now deceased.³⁶

²⁸ Transcript of ERISP with [NP220] 23 March 1995, Q179-A179 (SCOI.10012.00008).

²⁹ Situation Report, 11 May 1995 (SCOI.10005.00021).

³⁰ Situation Report, 4 June 1995 (SCOI.10005.00023).

³¹ Statement of [NP219] 28 March 1995, [3] (SCOI.10002.00037).

³² Statement of [NP219] 28 March 1995, [8] (SCOI.10002.00037).

³³ Statement of [NP219] 28 March 1995, [9] (SCOI.10002.00037).

³⁴ Transcript of ERISP with [NP220] 23 March 1995, Q171-A173 (SCOI.10012.00008).

³⁵ Transcript of ERISP with [NP220] 23 March 1995, Q121-131 (SCOI.10012.00008).

³⁶ Statement of Tom Allchurch, 19 June 2023, [27] (SCOI.73527).

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Exhibits: availability and testing

37. On 3 May 2023 a Summons was issued to the NSWPF requiring production of the following exhibits taken into evidence as part of the initial police investigation:³⁷
- a. A sample of blood from Mr Meek;
 - b. Fingernail scrapings from the right and left hand of Mr Meek;
 - c. Swab collected from the kitchen floor;
 - d. T-shirt;
 - e. Pair of shorts;
 - f. Pair of blue underpants;
 - g. Black wallet and contents;
 - h. Broken brown ceramic bowl;
 - i. Plastic water ampule;
 - j. Newspaper.
38. On 17 May 2023 Police wrote to the Inquiry indicating that none of the exhibits were able to be located.³⁸ The searches undertaken by the NSWPF were set out in a statement of Detective Sergeant Andrew Hamill dated 26 May 2023.
39. The sample of Mr Meek's blood was transported to FASS on 4 October 1995 and has been retained by FASS.³⁹ A sample of Mr Meek's hair was destroyed on 23 December 1999 with the approval of Detective Sergeant Tanos.⁴⁰ The t-shirt, pair of shorts, fingernail scrapings (right and left), oral and anal swabs and a pair of underpants were handed to Detective Sergeant Tanos on 20 November 1998.⁴¹ These exhibits were unable to be located.⁴² Similarly, the brown ceramic bowl, plastic ampule and several pieces of newspaper were returned to the Surry Hills Police Station on or around 23 March 1995. They were not located by Detective Sergeant Hamill's searches.⁴³

³⁷ Statement of Detective Sergeant Andrew Hamill, 26 May 2023, [5]-[6] (NPL.9000.0012.0126).

³⁸ Statement of Tom Allchurch, 19 June 2023, [15]-[16] (SCOI.73527).

³⁹ Statement of Detective Sergeant Andrew Hamill, 26 May 2023, [10](c)(ii).

⁴⁰ Statement of Detective Sergeant Andrew Hamill, 26 May 2023, [10](c)(iv).

⁴¹ Statement of Detective Sergeant Andrew Hamill, 26 May 2023, [10](c)(v).

⁴² Statement of Detective Sergeant Andrew Hamill, 26 May 2023, [10](d)].

⁴³ Statement of Detective Sergeant Andrew Hamill, 26 May 2023, [10](d).

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40. The searches conducted by Detective Sergeant Hamill located some additional exhibits which were not the subject of the summons. These were identified as a swab from the floor,⁴⁴ yellow thongs, a sample of the hallway carpet, the floor mat and three separate bags of cigarette butts collected from ashtrays in the kitchen and dining room.⁴⁵ The swab of the floor is still retained by FASS.⁴⁶ The other exhibits were not located.⁴⁷
41. In addition, a pair of glasses belong to Mr Meek were handed to Detective Sergeant Tanos on 20 November 1998. No further records in relation to these glasses could be located.⁴⁸
42. A receipt from the Sydney Crime Scene records indicated that a black wallet containing various items was transported to the Surry Hills Police Station on 11 March 1995. Neither the wallet nor further records concerning the wallet could be located.⁴⁹ Finally, a grey-coloured ring box containing a gold-coloured men's ring with a tiger's eye stone was recorded as being received by the Surry Hills Police Station on 2 October 1995 and returned to the owner on 10 March 1999.⁵⁰

Findings at inquest, including as to manner and cause of death

43. An inquest into Mr Meek's death was listed for mention on 27 October 1995. There is no record of an inquest being held. It is likely that the inquest into Mr Meek's death was suspended because Mr Heatley was charged with Mr Meek's murder.

Criminal proceedings

44. Police charged Mr Heatley with the murder of Mr Meek. A committal hearing was held on 4-8 March 1996 and 27 March 1996. Mr Heatley was ultimately committed to trial. The trial began on 16 November 1998.
45. The case against Mr Heatley was entirely circumstantial. The essence of the case was as follows:
- a. Mr Meek died between 11:15am and 12 noon on 7 March 1995;
 - b. Mr Heatley, by his own admission, stole Mr Meek's ring;

⁴⁴ This appears to be an error in Detective Sergeant Hamill's statement, as a swab from the floor was the subject of the summons.

⁴⁵ Statement of Detective Sergeant Andrew Hamill, 26 May 2023, [10](c)(viii).

⁴⁶ Statement of Detective Sergeant Andrew Hamill, 26 May 2023, [10](c)(ix).

⁴⁷ Statement of Detective Sergeant Andrew Hamill, 26 May 2023, [10](d).

⁴⁸ Statement of Detective Sergeant Andrew Hamill, 26 May 2023, [10](c)(x).

⁴⁹ Statement of Detective Sergeant Andrew Hamill, 26 May 2023, [10](c)(xi).

⁵⁰ Statement of Detective Sergeant Andrew Hamill, 26 May 2023, [10](c)(vi).

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- c. Mr Plumb's evidence established that Mr Meek was wearing the ring at about 11:15am. A jury could conclude that Mr Heatley forcibly removed that ring and that he was responsible for the assault which killed Mr Meek;
 - d. The evidence of Mr Heatley, Mr Griffiths and Mr Puddicombe established that Mr Heatley attempted to sell the ring at the King's Loan Office at 1:15pm.
46. The prosecution did not contend that Mr Heatley was motivated to kill Mr Meek by any LGBTIQ bias or by any motive relating to a sexual relationship or a sexual advance. The criminal proceedings are discussed in more detail below.

Features of /concerns with original police investigation

47. The investigation by the NSWPF was thorough in several respects. The NSWPF spoke to many of Mr Meek's neighbours and associates. The investigation into Mr Meek's missing ring was particularly comprehensive, as the NSWPF contacted many pawnshops and ultimately located the pawnshop where Mr Heatley had sold the missing ring.
48. The original investigation was open to the possibility that Mr Meek's death was a hate crime. The NSWPF actively pursued lines of investigation relating to this possibility. As noted above, the *Sydney Star Observer* and *Capital Q Weekly* reported that the NSWPF were investigating the matter as a gay hate killing "probably more so than not at this stage".⁵¹
49. The investigation was ultimately identified Mr Heatley as a suspect and, consequently, charges were brought against Mr Heatley.
50. Aspects of the investigation of Mr Meek's death will be considered in the context of a public hearing which will take place following the public hearing concerning Mr Meek's death. For that reason, further submissions may be made concerning the adequacy of the police investigation at a later time.

The used condom in Mr Meek's bedroom and the release of the crime scene

51. Constable Whybro, when she attended Mr Meek's apartment on the afternoon of 8 March 1995, observed a used condom in Mr Meek's bedroom. The NSWPF did not take that used condom into evidence. As a consequence, the used condom was never subject to forensic testing and it is not available for forensic testing now.

⁵¹ Kristy Machon, 'Bashed to Death: Gay Hate Murder', *Sydney Star Observer* (Sydney, 23 March 1995) (SCOI.10013.00048); 'No concrete leads in Meek murder', *Capital Q Weekly* (Sydney, 23 March 1995) (SCOI.10013.00046).

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52. The evidence of Constable Humphreys is consistent with a crime scene being established on 8 March 1995, and then released on the same day once the Crime Scene Unit left the premises.⁵² It appears that Police at this time were not treating Mr Meek's death as suspicious, as reflected in the report to the coroner of the same date and in Constable Whybro's observation that "[h]e did not appear to be the subject of recent trauma".⁵³ This is consistent with the crime scene being released once the Crime Scene Unit left the premises.
53. Mr Meek's daughter, Ms McMahon (who previously used the name Wendy Elizabeth Griffin), said that she was initially told by the NSWPF that Mr Meek had died of a heart attack.⁵⁴ The criminal investigation into Mr Meek's death did not formally commence until 14 March 1995, following the post-mortem that took place on 11 March 1995.⁵⁵ By this time, Mr Meek's daughters and their husbands had tidied Mr Meek's flat.⁵⁶ Ms McMahon recalls picking up the condom and throwing it away, and said that because she had been told that Mr Meek had died of a heart attack she "didn't think anything of it".⁵⁷
54. It is not clear why the preliminary view that Mr Meek had died from natural causes led to the NSWPF releasing the crime scene. Mr Meek was not an elderly man, and the photos of his body show residual blood on the back of his head, consistent with a blow.⁵⁸ The NSWPF did not have any information to suggest that Mr Meek had a history of heart failure, or of any other disease which would have explained his sudden collapse and death.⁵⁹ Although Mr Meek was HIV positive, there was nothing to suggest that this had caused an unexpected collapse. Further, the position of Mr Meek's body did not suggest that he may have, for example, fallen and struck his head on an item of furniture.
55. The crime scene should not have been released when the cause of death was unknown and where there was a possibility of homicide. The premature release of the crime scene meant that the used condom was disposed of and could not be taken into evidence.

⁵² Statement of Constable Saeran Humphreys, 12 March 1994, [8]-[9].

⁵³ P79A Report of death to the Coroner, 8 March 1995 (SCOI.10001.00008). Statement of Constable First Class Suzana Whybro, 2 April 1995, [12] (SCOI.10001.00091).

⁵⁴ Statement of Mercedes McMahon, 19 June 2023, [7] (SCOI.84007).

⁵⁵ Statement of Detective Sergeant Anthony Tanos, 20 September 1995, [3]-[5] (SCOI.10004.00064).

⁵⁶ Statement of Karen Franks, 12 March 1995, [8] (SCOI.10001.00131).

⁵⁷ Statement of Mercedes McMahon, 19 June 2023, [7] (SCOI.84007#).

⁵⁸ Crime scene photographs [SENSITIVE], 8 March 1995, Photograph 12 (SCOI.10001.00008).

⁵⁹ Mr Meek had a background history of asthma and chronic obstructive airways disease, secondary to smoking (see Statement of Alexander Beveridge, [5] (SCOI.10001.00166), but there is no suggestion the NSWPF were aware of this history at the time they located Mr Meek's body.

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56. Ms McMahon stated that she asked for an autopsy because she did not believe that Mr Meek's death had been caused by a heart attack.⁶⁰ She appears to have formed this view after going to identify Mr Meek's body (see [57.a] below). She described his face as being "bruised and bashed".⁶¹
57. On 29 August 1995, solicitors for Mr Meek's daughters wrote to the Commissioner of Police raising concerns about the conduct of the investigation into Mr Meek's death. The letter noted the following concerns which suggest that police should not have formed the preliminary view that Mr Meek died from natural causes and should not have released the crime scene:
- a. When Mrs Griffin saw her father's body at the Glebe Morgue on 10 March 1995, she immediately perceived injuries which were extensive and which she believed were inconsistent with a cause of death attributed by the NSWPF officers who originally attended the scene as a heart attack;
 - b. The police officers who attended the scene considered that there were no suspicious circumstances despite the absence of personal belongings;
 - c. Mrs Griffin and Mrs Franks found blood under the front doormat when they attended Mr Meek's flat on 9 March 1995;
 - d. The NSWPF considered that Mr Meek died as a result of a heart attack, but gave no indication to Mrs Griffin and Mrs Franks as to why they reached this conclusion. There was no history of heart disease in the family.⁶²
58. The used condom was significant in two key respects:
- a. *First*, the condom suggested that Mr Meek had engaged in sexual activity prior to his death. It raised the possibility that Mr Meek had been killed by a sexual partner. The NSWPF were subsequently told that Mr Heatley may have had a sexual relationship with Mr Meek. Further, some witnesses had formed the view that Mr [NP220] had a sexual relationship with Mr Meek. Both Mr Heatley and Mr [NP220] denied that he had a sexual relationship with Mr Meek. The existence of the condom was never put to Mr [NP220] or Mr Heatley, nor were they pressed by the NSWPF on their assertions that they had not had a sexual relationship with Mr Meek.
 - b. *Second*, forensic testing could have been performed on the condom.
59. The results of forensic testing of the used condom could have affected the investigation as follows:

⁶⁰ Statement of Mercedes McMahon, 19 June 2023, [8] (SCOI.84007).

⁶¹ Statement of Mercedes McMahon, 19 June 2023, [9] (SCOI.84007).

⁶² Letter from Blessington Judd to Commissioner of Police, 29 August 1995, 1-2 (SCOI.02729.00026).

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- a. If Mr Heatley's DNA had been found on the used condom it would have cast significant doubt on his explanation of the morning's events. Having regard to the attitudes he had expressed in relation to Mr Meek's sexuality, and his denial of a sexual relationship with Mr Meek, it would have raised the possibility of a motive for killing Mr Meek other than robbery. This evidence would have materially affected the prosecution case.
 - b. If Mr [NP220]'s DNA had been found on the used condom, then the NSWPF would have had reason to investigate him further.
 - c. If a third person's DNA had been found on the used condom, then the NSWPF would have had a further suspect to investigate.
60. The failure to take the used condom into evidence foreclosed a significant avenue of investigation. It may have prevented the identification and successful prosecution of Mr Meek's killer. It was a significant oversight or error of judgment in the investigation.

Phone records

61. The evidence establishes that Mr Meek made several phone calls on the morning of 7 March 1995, and that various people were attempting to call Mr Meek that morning. The timing of those phone calls assumes some significance in establishing when Mr Meek died.
62. Of particular significance is the timing of Mr Meek's call or calls to the radio station. Mr Graham gave evidence that he spoke to Mr Meek at 10:30am, suggesting he was alive at the time. A copy of Mr Meek's call records could have confirmed whether that was the case and could have provided certainty as to the timing of that call.
63. A copy of Mr Meek's call records could also have established whether he made other calls to the radio station that morning. That possibility was raised by the defence at the trial of Mr Heatley. If Mr Meek did make other calls to the radio station, that would be consistent with Mr Heatley's account that he left Mr Meek's flat before 9:00am: see below at [160]-[161]. If Mr Meek did not make other calls to the radio station, that would tend to suggest that Mr Heatley was present when Mr Meek called Mr Graham. That would undermine Mr Heatley's claim that he left the flat before 9:00am and it would tend to incriminate him by shrinking the window of time in which any other person could have killed Mr Meek.
64. Police sought to obtain records showing the details of calls made by Mr Meek before his death. On 17 March 1995, Police made a request to the Crime Data Centre for call charge records relating to Mr Meek's phone number. The Crime Data Centre provided information that there were no call charge

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records.⁶³ On 8 July 1995, Police requested that the Crime Data Centre provide “telephone patterns of calls made out of Meek’s residence”.⁶⁴ The files provided to the Inquiry do not include any response from the Crime Data Centre to this request, or any other records of calls made by Mr Meek in March 1995.

65. On 13 April 2023, the Inquiry issued a summons to the NSWPF for any documents provided by the Crime Data Centre in response to the request of 8 July 1995.⁶⁵
66. On 18 April 2023, the NSWPF wrote to the Inquiry indicating that it did not hold any documents responsive to the summons. The NSWPF advised that if any documents did exist, they would be included in the documents already produced to the Inquiry. The NSWPF also advised that telecommunication companies retain data or material of this nature for a period of seven years only.⁶⁶
67. The Inquiry has also received the Supreme Court file for the trial of Mr Heatley. Mr Meek’s call records do not appear to have been in evidence at the trial. This might suggest that attempts to obtain them were unsuccessful.
68. There were other steps that could, perhaps, have been taken to obtain Mr Meek’s call records. The material before the Inquiry does include phone bills issued to Mr Meek for earlier months by Telecom Australia. Those phone bills included a record of calls made. An attempt could have been made to obtain Mr Meek’s call records from Telecom Australia. No such attempt can be made now, given that telecommunication companies retain data of this nature for a period of seven years only. Likewise, an attempt could have been made to obtain phone records from 2WS FM 101.7.
69. It appears that the officers investigating Mr Meek’s death were aware of the potential utility of these records and that they sought to obtain them. If there were some difficulty obtaining these call records, this should have itself been recorded, given their potential significance to any prosecution or future investigation. The failure to obtain these call records is unexplained on the material available to the Inquiry and appears to be a material oversight in the investigation.

The failure to further investigate Ms [NP219]

70. The last evidence of Mr Meek being alive is Ms [NP219] evidence that she had seen Mr Meek walking his dogs between 11:30am and midday on Tuesday, 7 March 1995.⁶⁷ Ms [NP219] said that she saw Mr Meek

⁶³ Running Sheet 9/3/2, 20 March 1995 (SCOI.10002.00104).

⁶⁴ Running Sheet 10/18/1, 10 July 1995 (SCOI.10011.00217).

⁶⁵ Summons NSWPF85, 13 April 2023 (SCOI.82972).

⁶⁶ Letter from NSW Police to Inquiry re Summons NSWPF85, 18 April 2023 (SCOI.45195).

⁶⁷ Statement of [NP219] 28 March 1995, [10] (SCOI.10002.00037).

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outside the window of her unit in the park.⁶⁸ As is set out at [35] above, Ms [NP219] had a history of animosity and violence towards Mr Meek, and the NSWPF had evidence that she disliked gay men. Mr [NP220] told the NSWPF that Ms [NP219] had told Mr [NP220] that she knew who had killed Mr Meek but didn't "want to say anything because she doesn't want to get involved."⁶⁹

71. It is appropriate to treat the evidence of Ms [NP219] dislike of gay men with caution. Ms [NP219] was a member of an LGBTIQ community and the evidence appears to be associated with a perception that two different LGBTIQ communities "just do not get along" (as explained by Mr [NP220] when he summarised what he understood Ms [NP219] attitude to be).⁷⁰ It would not be safe to conclude on this evidence alone that Ms [NP219] was homophobic.
72. The Terms of Reference do not require the Commissioner to make further findings as to the nature and extent of Ms [NP219] membership of an LGBTIQ community. It is not necessary, and therefore not appropriate, to go into further detail as to the nature of Ms [NP219] membership of an LGBTIQ community. The matter only calls for mention at all to provide context to the evidence that she did not like gay men, and to explain the basis on which we submit that it would not be safe to conclude that she in fact held homophobic views.
73. There is no evidence that the NSWPF made enquiries concerning Ms [NP219] alibi. Although Mr Heatley emerged as a significant suspect, Ms [NP219] was a resident of the apartment building and had a known history of animosity with Mr Meek, including a previous occasion on which she had assaulted Mr Meek. Ms [NP219] was known to become violent when under the influence of alcohol and drugs. In our submission, the apparent failure to investigate Ms [NP219] alibi was an insufficiency in the original investigation.

Additional matters concerning exhibits

74. Cigarette butts were collected from ashtrays in the kitchen and dining room, but were never subject to forensic testing, and were not able to be located in the searches undertaken by the NSWPF (see [40] above). Forensic testing of these cigarette butts should have been conducted. In addition, the photos show a large shifting spanner on top of the dresser. In circumstances where Mr Meek died of injuries inflicted via blunt force trauma, the spanner should also have been taken into evidence.

⁶⁸ R v Michael Alan Heatley – Trial Transcript, 16-25 November 1996, T377.8 (SCOI.82969).

⁶⁹ Transcript of ERISP with [NP220] 23 March 1995, Q176-Q177 (SCOI.10012.00008).

⁷⁰ Transcript of ERISP with [NP220] 23 March 1995, Q172-Q173 (SCOI.10012.00008).

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75. Finally, the crime scene photographs show two open sachets of lubricant and a crumpled handkerchief on the bedside table.⁷¹ Given the other evidence that sexual activity occurred, it is possible that the handkerchief may have contained DNA evidence, particularly considering its location and proximity to sachets of lubricant. The handkerchief should also have been taken into evidence. If the handkerchief had been disposed of in the period between 8 and 11 March, then the premature release of the crime scene led to the loss of the opportunity to forensically test the handkerchief. The same observations made above about the used condom may be made about the handkerchief.

Complaint by Mr Meek's family

76. In addition to their complaints about the preliminary conclusion that Mr Meek died as a result of a heart attack, Mr Meek's daughters raised complaints about the conduct of the police officers with whom they dealt. The letter from Blessington Judd recorded their concerns as follows:

Both daughters were extremely distressed by comments made to them by Constable [REDACTED] of the Surry Hills Police Station at the time they were advised of their father's death by that Constable.

In this regard both daughters had separate conversations with the Constable who made a similar disparaging remark to each of them about their father which was hurtful and uncalled for.

Further, the Constable was unhelpful to the daughters when they enquired as to the whereabouts of their father's personal belongings. The Constable also made a cynical remark in this regard.⁷²

77. It is uncontroversial that victims of crime and their family members should be treated with respect. Clearly, Mr Meek's family felt that they were not treated with due respect, to the extent that they retained solicitors to make a complaint to the Commissioner of Police. That aspect of the original investigation was disappointing.
78. There is evidence that at least one of the police officers involved in the investigation may have held homophobic views. Detective Constable Callanan, who interviewed [NP220] referred to the "gay or paedophile movement."⁷³ Although Detective Constable Callanan may have been positing these two

⁷¹ Crime Scene Photographs, 8 March 1995, 28 (SCOI.10402.00095).

⁷² Letter from Blessington Judd to Commissioner of Police, 29 August 1995, 2 (SCOI.02729.00026).

⁷³ Transcript of ERISP with [NP220] 23 March 1995, Q171-A172 (SCOI.10012.00008).

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possibilities as discrete alternatives, the language is also consistent with him treating the two as coterminous or overlapping to a significant degree.

Later UHT reviews

79. On the records available to the Inquiry, it appears that Mr Meek's death has not been the subject of a review by the Unsolved Homicide Team.

Strike Force Parrabell

Use of the Bias Crimes Indicators Form

80. The Bias Crime Indicators Form (BCIF) records that Mr Meek died on 7 March 1995. It records his death as solved and names Michael Heatley as the offender.⁷⁴
81. The BCIF states: "There is no information to suggest HEATLEY had any issue with MEEK's sexuality."⁷⁵
82. That is incorrect. Mr Woodward stated that Mr Heatley held negative attitudes towards gay men.⁷⁶ During his ERISP, Mr Heatley used a homophobic slur to describe Mr Meek and said that he "used to spin out on him having AIDS."⁷⁷ Discrimination on the basis of sexuality and on the basis of HIV-status are distinct, but they may overlap, particularly in circumstances where a person has expressed homophobic views.
83. The BCIF asserts: "HEATLEY is not known to have been involved in other bias related crimes or incidents that may have caused him to murder MEEK".⁷⁸ As will be seen, Mr Heatley subsequently committed another homicide which is likely to have been a bias crime, and which had marked similarities to the death of Mr Meek.
84. The statement that Mr Heatley was "not known" to have been involved in other bias related crimes or incident can only be correct if Strike Force Parrabell chose not to conduct basic further searches concerning Mr Heatley. A review of Mr Heatley's criminal record, or even a search of Google for "Michael Heatley AND murder", would have allowed Strike Force Parrabell to identify this homicide. A search of the NSW Caselaw database for "Heatley" would have allowed Strike Force Parrabell to identify the sentencing judgment.⁷⁹ Reviewing that judgment would have revealed that Mr Heatley had been involved in another crime which may have been a bias crime.

⁷⁴ Strike Force Parrabell Bias Crime Indicators Review Form – James Meek, undated, 1 (NPL0115.0002.1368).

⁷⁵ Strike Force Parrabell Bias Crime Indicators Review Form – James Meek, undated, 4 (NPL0115.0002.1371).

⁷⁶ Statement of Robert Woodward, 10 July 1995, [11] (SCOI.10005.00117).

⁷⁷ Transcript of ERISP with Michael Heatley, 22 June 1995, A77, A85 (SCOI.10005.00047).

⁷⁸ Strike Force Parrabell Bias Crime Indicators Review Form – James Meek, undated, 8 (NPL0115.0002.1375).

⁷⁹ Tab 68, *R v Heatley* [2006] NSWSC 1199 (SCOI.11283.00001).

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85. The BCIF asserts: “There is no evidence that suggests any previous existence or incidents of bias related crime having occurred towards MEEK”.⁸⁰ That is also incorrect. Mr Meek’s daughter, Karen Franks, provided a statement to Police in which she recounted other crimes of which Mr Meek had been a victim. In early 1994, Mr Meek was walking his dogs in the park and a young guy in the flat called him a “gay bastard and a poofter etc.”. Mr Meek told Ms Franks that he was pushed to the ground, his glasses were broken, and the guy bashed him up.⁸¹ Mr Meek also described this incident to his doctor.⁸²
86. The BCIF refers to the existence of the used condom. However, it appears that Strike Force Parrabell uncritically accepted Mr Heatley’s claims that there had been no sexual activity or sexual advance.⁸³ The BCIF does not refer to the evidence of Mr Kane (see below at [166]), who claimed that Mr Meek told him that he and Mr Heatley had had a sexual relationship. There are reasons to doubt the evidence of Mr Kane on this point, as outlined elsewhere in these submissions. However, the BCIF should have at least considered that evidence.
87. The errors and omissions in the BCIF are material and significant.

Results of Strike Force Parrabell

(a) The “Summary of Findings” box at the end of the BCIF

88. The “Summary of Findings” box at the end of the BCIF records the following:

Indicator: It appears unlikely that sexuality or other bias was involved in the death.

Comment: MEEK on all accounts, was living an ‘out’ homosexual lifestyle that often utilised ‘beats’ to meet men. He was known around the Northcott Department of Housing Complex, as a man who preferred younger men, often seen trying to solicit sex from the younger boys around the building or in Ward Park, next to the housing complex. Michael HEATLEY was charged with the murder of MEEK, however, was later found not guilty. There is no evidence to suggest HEATLEY was homosexual. There were no actual witnesses to the murder of MEEK. A number of MEEK’S friends and acquaintances provided statements during the investigation however there was no mention by any persons that they believed this incident to have been motivated by bias. There is no evidence to suggest HEATLEY had ever been

⁸⁰ Strike Force Parrabell Bias Crime Indicators Review Form – James Meek, undated, 8 (NPL0115.0002.1375).

⁸¹ Statement of Karen Franks, 12 March 1995, [10] (SCOI.10001.00131).

⁸² Statement of Dr Alexander Beveridge, 27 March 1995, [6] (SCOI.10001.00166).

⁸³ Strike Force Parrabell Bias Crime Indicators Review Form – James Meek, undated, 11-12 (NPL.0115.0002.1368).

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involved in any incidents involving homosexual victims or was a member/associate of and OHG. During record of interview, HEATLEY denied any involvement in the murder of MEEK. The investigation established HEATLEY had slept on the couch at MEEK'S unit two days prior to him being discovered deceased. HEATLEY admitted to stealing a 'gents 9 carrot ring' from MEEK, hocking the ring the same day. It was noted, that there were no signs of disturbance or forced entry on MEEK'S unit. During crime scene processing, PCC WHYBRO noted the presence of a used condom on the floor of MEEK'S bedroom however HEATLEY denied any sexual activities or advances ever taking place between himself and MEEK. No definitive murder weapon was identified during the investigation however MEEK'S injuries were caused as a result of blunt force to the head.⁸⁴

89. The BCIF was incorrect to conclude that "there was no mention by any persons that they believed this incident to have been motivated by bias". As noted above, the NSWPF themselves told the *Sydney Star Observer* and *Capital Q Weekly* that they were investigating the matter as a possible hate crime. It is regrettable that Strike Force Parrabell was less open to the possibility that Mr Meek's death was a hate crime than the officers who conducted the original investigation.

(b) Case Summary

90. The Strike Force Parrabell Case Summary for this matter (case summary number 68) describes this matter as unsolved, in contrast to the BCIF.⁸⁵ The final position of Strike Force Parrabell in relation to whether Mr Meek's death was solved is unclear. It may be that this calls into question the accuracy of the numerical analysis in the final report of Strike Force Parrabell in relation to the number of solved and unsolved cases.
91. The Case Summary records the conclusion of Strike Force Parrabell as "no evidence of bias crime". The Case Summary reads as follows:

"Identity: James (Jim) Meek was 47 years old at the time of his death.

Personal History: Mr Meek lived in a residential unit at the Northcott Social Housing estate. He regularly visited different 'gay beat' locations. He had a reputation for meeting younger men in Ward Park, opposite his residential unit, some said 'street kids' and offering them a bed and food in exchange for sex.

⁸⁴ Strike Force Parrabell Bias Crime Indicators Review Form – James Meek, undated, 14 (NPL.0115.0002.1381).

⁸⁵ Exhibit 6, Tab 49, Strike Force Parrabell – Case Summaries, 33 (SCOI.76961.00014).

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Location of Body/Circumstances of Death: Mr Meek’s body was found inside his residential unit. He suffered severe head injuries as a result of blunt force trauma. It was determined that Mr Meek had been struck to the head by his killer using a ceramic bowl. Police identified an 18-year-old suspect, who had known Mr Meek for approximately 6 months after meeting him via his sister. The suspect resided in Tasmania before moving to Sydney where he stayed and slept at several relative’s places and Mr Meek’s residence. His sexuality could not be determined. Despite there being no witnesses to Mr Meek’s death, investigators established that the suspect had slept on Mr Meek’s couch two days prior to his death. The suspect admitted to staying at Mr Meek’s residence 2 days prior and that he stole a ring from the premises upon leaving and pawned it later that same day. The suspect denied any involvement in Mr Meek’s death. There was no sign of disturbance within or forced entry to Mr Meek’s unit. It is likely Mr Meek knew his killer and allowed them entry.

Sexual Orientation: Mr Meek identified as gay.

Coroner/Court Findings: Police charged the suspect with Mr Meek’s murder. At trial, he was found not guilty by judicial direction.⁸⁶

92. There are two notable inaccuracies in the Case Summary. Those inaccuracies do not appear in the BCIF.
93. Mr Heatley did not stay at his flat “two days prior to his death”, as the Case Summary claims. Mr Heatley stayed at Mr Meek’s flat the night before his death and left the day of his death. Mr Meek’s body was not found until the day after his death. The BCIF correctly recorded that Mr Meek died on 7 March 1995 and that Mr Heatley stayed at Mr Meek’s flat “two days prior to him being discovered deceased” (which was not until 8 March 1995).⁸⁷
94. It is not clear on what basis it is said that Mr Meek had been struck on the head using a ceramic bowl. The cause of Mr Meek’s death was “blunt force trauma to the head by unknown means”.⁸⁸ The BCIF noted that there was a “confused abrasion show[ing] a pattern” which “may represent a shoe print”. The BCIF also noted that no definitive murder weapon had been identified.⁸⁹ In those circumstances, while it may not have been possible to definitively exclude the ceramic bowl as the murder weapon,

⁸⁶ Exhibit 6, Tab 49, Strike Force Parrabell – Case Summaries, 33 (SCOI.76961.00014).

⁸⁷ Strike Force Parrabell Bias Crime Indicators Review Form – James Meek, undated, 10 (NPL0115.0002.1377).

⁸⁸ Strike Force Parrabell Bias Crime Indicators Review Form – James Meek, undated, 7 (NPL0115.0002.1374).

⁸⁹ Strike Force Parrabell Bias Crime Indicators Review Form – James Meek, undated, 13 (NPL0115.0002.1380).

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the evidence made it more probable that the blunt force injuries had been caused by Mr Meek being struck or kicked in the head.

95. Neither the post-mortem examination nor the prosecution concluded that Mr Meek's killer used a ceramic bowl. As noted above, the forensic pathologist gave evidence at the trial of Mr Heatley that Mr Meek's injuries were consistent with his killer stomping on his head.
96. Strike Force Parrabell was incorrect to conclude that there was no evidence of bias crime. The evidence available to Strike Force Parrabell was sufficient, at the least, to support a conclusion "suspected bias crime". That is particularly so given that the view appears to have been taken that Mr Heatley was responsible for Mr Meek's death, or at the very least that Mr Heatley was the most likely suspect.
97. The evidence available to Strike Force Parrabell concerning Mr Meek's death, and Mr Heatley's potential involvement, was that:
 - a. Mr Meek was a gay man;
 - b. Mr Heatley had stayed at Mr Meek's flat the night before his death (not two days before his death);
 - c. Mr Heatley had expressed homophobic views;
 - d. There was a suggestion that Mr Meek and Mr Heatley had had a sexual relationship;
 - e. There was a used condom in Mr Meek's flat, suggesting that Mr Meek may have been killed by a sexual partner; and
 - f. Mr Heatley used to "spin out" about Mr Meek having HIV/AIDS.
98. Basic searches would have revealed that Mr Heatley had killed another man in similar circumstances (see [84] above), and that that homicide was likely to have been a bias crime.

(c) Academic review

99. The academic review concluded that there was "insufficient information" to make a determination. The academic team did not have access to the underlying case files and so would have been unaware of the evidence of Mr Kane and the evidence of Mr Heatley's attitude to Mr Meek having HIV/AIDS. The academic team's conclusion is less open to criticism than the conclusion of Strike Force Parrabell, although it does speak to the limitations facing the academic team.

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Investigative and other steps undertaken by the Inquiry, and their outcomes

100. On 11 May 2022, the Inquiry issued a written request to the Registrar of the Coroners Court of NSW to obtain the coronial file in relation to Mr Meek's death.⁹⁰ On 26 May 2022 the Coroners Court provided Mr Meek's coronial file to the Inquiry. It appears that an inquest in Mr Meek's death was not held as his death was the subject of a murder investigation and ultimately a prosecution.⁹¹

Attempts to locate and contact family members

101. On 27 April 2023, the Inquiry wrote to Mr Meek's daughters, Karen Franks and Mercedes McMahon.⁹² On 4 May 2023, Ms McMahon contacted the Inquiry by telephone.⁹³ Ms McMahon subsequently provided a statement to the Inquiry.

102. On 5 June 2023, the Inquiry again wrote to Ms Franks. On 14 June 2023, Ms Franks advised the Inquiry that she did not wish to have any involvement with the work of the Inquiry.⁹⁴

Summonses issued

103. On 18 May 2022, a summons was issued to the NSWPF for, relevantly, the investigative file in relation to the death of Mr Meek. Material in response was produced on 8 June 2022.⁹⁵ On 25 August 2022 a summons was issued to the NSWPF for records in relation to, relevantly, Strike Force Parrabell. Material responsive to that summons as produced between 9 September 2022 and 18 November 2022.⁹⁶

104. On 2 September 2022, the Inquiry issued a summons to the NSWPF for the criminal history of Mr Heatley.⁹⁷ The NSWPF duly produced a criminal history as of 8 September 2022. That criminal history disclosed that Mr Heatley had been convicted of manslaughter in 2006.⁹⁸

105. A search of the NSW Caselaw database for Mr Heatley revealed that he was sentenced for the manslaughter of Craig Behr by Whealy J in *R v Heatley* [2006] NSWSC 1199. Mr Heatley appealed against his sentence in *Heatley v R* [2008] NSWCCA 226.

⁹⁰ Statement of Tom Allchurch, 19 June 2023, [4].

⁹¹ Statement of Tom Allchurch, 19 June 2023, [5].

⁹² Statement of Tom Allchurch, 19 June 2023, [17].

⁹³ Statement of Tom Allchurch, 19 June 2023, [18].

⁹⁴ Statement of Tom Allchurch, 19 June 2023, [21]-[23].

⁹⁵ Statement of Tom Allchurch, 19 June 2023, [6].

⁹⁶ Statement of Tom Allchurch, 19 June 2023, [7].

⁹⁷ Statement of Tom Allchurch, 19 June 2023, [8].

⁹⁸ Statement of Tom Allchurch, 19 June 2023, [10].

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106. On 23 January 2023, the Inquiry issued a summons to the Supreme Court of NSW for the court file for the prosecution of Mr Heatley for the homicide of Mr Behr. Those materials were duly produced and reviewed by the Inquiry.⁹⁹
107. Mr Heatley committed an armed robbery on 15 March 2002. He was not located by Police at the time and he disclosed the offence voluntarily in July 2003. While in custody, Mr Heatley bashed and killed Craig Behr, a fellow inmate on 27 March 2004. He pleaded guilty to manslaughter. The Crown accepted the plea, based on Mr Heatley's mental illness.
108. Mr Heatley was asked how he had killed Mr Behr, to which he responded: "I kicked him to death".¹⁰⁰ The post-mortem of Mr Behr found that he could have died from a blow to the head or from asphyxiation caused by vomit in his airways.¹⁰¹ On 27 October 2006, while Mr Behr's mother read her Victim Impact Statement to the Court, Mr Heatley interrupted in a violent and aggressive manner. He asserted once more that Mr Behr had made a sexual advance on him. On 30 October 2006, Mr Heatley apologised for his outburst.¹⁰²
109. Justice Whealy did not ultimately accept that Mr Heatley was the subject of a sexual advance by Mr Behr.¹⁰³
110. On 23 January 2023, the Inquiry issued a summons to the Commissioner of Corrective Services NSW (CSNSW) for the custodial records of Mr Heatley and Mr [NP220].¹⁰⁴ Those materials were duly produced and reviewed by the Inquiry.
111. As outlined above at [65]-[6666], the Inquiry issued a summons to the NSWPF seeking the production of documents recording calls made from Mr Meek's home phone. The NSWPF were not able to produce any material responsive to that summons.
112. On 30 May 2023, the Inquiry issued a further summons to the NSWPF seeking some further documents in relation to Mr Heatley (Summons No. NSWPF112). The NSWPF produced two documents in response to that summons, which were duly reviewed by the Inquiry.¹⁰⁵

⁹⁹ Statement of Tom Allchurch, 19 June 2023, [13]-[14].

¹⁰⁰ *R v Heatley* [2006] NSWSC 1199 at [41] (SCOI.11283.00001).

¹⁰¹ *R v Heatley* [2006] NSWSC 1199 at [42] (SCOI.11283.00001).

¹⁰² *R v Heatley* [2006] NSWSC 1199 at [67] (SCOI.11283.00001).

¹⁰³ *R v Heatley* [2006] NSWSC 1199 at [67] (SCOI.11283.00001).

¹⁰⁴ Statement of Tom Allchurch, 11 June 2023, [13]-[15].

¹⁰⁵ Statement of Tom Allchurch, 11 June 2023, [24]-[26].

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Forensic testing

113. On 19 May 2023, the Inquiry wrote to the Forensic and Analytical Science Service (**FASS**) and requested a statement addressing a number of topics concerning both the exhibits initially tested as part of the police investigation, and other exhibits which were collected but not tested.¹⁰⁶ That statement was provided on 20 May 2023 (**FASS Statement**).
114. The FASS Statement identifies that both reference blood for Mr Meek and a swab of blood from the kitchen floor are stored at FASS, and that further testing could have been conducted on the swab from the kitchen floor.¹⁰⁷ In addition, DNA extracts from the stored fingernails could have been carried out to compare with reference samples of Mr Meek, Mr Heatley and Mr **NP220**.¹⁰⁸
115. If the clothing items were available, they could have been examined for the presence of biological material and, if those were located, DNA testing could have been carried out on any stains. In addition, DNA testing could have been carried out to seek to obtain foreign DNA deposited by contact with the clothing. Trace DNA and profiling could have been attempted on the wallet, brown ceramic bowl and ampule.
116. In relation to the condom observed in Mr Meek's bedroom, the FASS Statement identifies that testing would not have been able to determine how recently the condom had been used, regardless of the presence or absence of semen.¹⁰⁹ In addition:¹¹⁰

DNA testing could have been carried out on subsamples taken from the interior and exterior of the condom, depending on the determination of the inside and outside of the condom as worn. The presence of semen, a high yield source of DNA, within the condom would have greatly assisted the recovery of DNA from the apparent wearer of the condom but could also contaminate the exterior of the condom during removal making the recovery of their sexual partner's DNA more problematic.

¹⁰⁶ Letter from Kate Lockery to Clint Cochrane – Request for statement (FASS), 19 May 2023 (SCOI.84005).

¹⁰⁷ FASS Statement, [1]-[2].

¹⁰⁸ FASS Statement, [2].

¹⁰⁹ FASS Statement, [4].

¹¹⁰ FASS Statement, [4].

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Submission as to the evidence before the Inquiry

The events of 4 March 1995 to 7 March 1995

Saturday (4 March 1995) and Sunday (5 March 1995)

117. On 4-5 March 1995 the 1995 Mardi Gras parade was held. In the two weeks before Mardi Gras Mr Meek helped Carole King prepare a float at her home. He volunteered at a stall during Mardi Gras. Ms King saw Mr Meek leave Mardi Gras at 4:00am.¹¹¹

Monday (6 March 1995)

118. On Monday, 6 March 1995, Mr Meek met Ms King to clean up the car that was used for the Mardi Gras float. He arrived between 12:30pm and 1:00pm and left about 3:00pm.¹¹² Brian Kane gave evidence of some events that he said took place on Monday, 6 March 1995. As is explained below, having regard to the other evidence in the matter, Mr Kane must have been mistaken as to time.

119. In the evening of 6 March 1995, Robert Garratt, a security guard at the Northcott Flats, was doing his rounds. Mr Garratt had come to know Mr Meek over the previous ten months. He had developed a habit of rattling the handle of the security door to Mr Meek's flat to let him know that he was there when he did his rounds. Mr Meek would usually, but not always, invite him in for a cup of coffee and a talk.¹¹³

120. On this occasion, Mr Meek invited Mr Garratt into his flat and they had a cup of coffee and talked for a while. While Mr Garratt was at the flat, there was a young man with Mr Meek, who was about 18 years old. Mr Garratt had seen the young man there previously. He was smoking marijuana from a homemade bong. Mr Garratt described the young man as 5'6"-5'7" tall, medium build with straight, unkempt sandy brown hair, about collar length, Australian in appearance.¹¹⁴ It is uncontroversial that this young man was Mr Heatley.

¹¹¹ Statement of Carole King, 18 March 1995, [6]-[7] (SCOI.10002.00018).

¹¹² Statement of Carole King, 18 March 1995, [8] (SCOI.10002.00018).

¹¹³ Statement of Robert Garratt, 11 March 1995, [4]-[6] (SCOI.10002.00003); Second Statement of Robert Garratt, 5 April 1995, (SCOI.10004.00047); Third Statement of Robert Garratt, 19 September 1995, (SCOI.10004.00048); R v Michael Alan Heatley – Trial Transcript, 16-25 November 1996, T38.1-40 (SCOI.82969). The dates provided by Garratt in his first statement were incorrect. He amended those dates in his second statement, which is confirmed in the transcript of his evidence.

¹¹⁴ Statement of Robert Garratt, 11 March 1995, [7] (SCOI.10002.00003).

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121. There was a movie on television while Mr Garratt was at Mr Meek's flat called "K2". Mr Garratt stayed at the flat until the end of the movie. He then left at about 10:35pm.¹¹⁵ This was the last time that Mr Garratt saw Mr Meek alive.

Tuesday morning (7 March 1995)

122. Brian Kane was a friend of Mr Meek and a resident of Northcott Flats. At 6:30am on Tuesday, 7 March 1995, Mr Kane received a phone call from Mr Meek. Mr Meek asked if Mr Kane had any smokes. Mr Kane did not. Mr Meek said that he would "see what he could do" and they ended the conversation.¹¹⁶

123. Carmen Sanpedro ran a mixed business known as A-Z on [REDACTED] Belvoir St, Surry Hills. At about 6:30am on 7 March 1995, she was setting up the shop for the day with her husband. Mr Meek knocked on the door. He bought two packets of Horizons cigarettes. He asked Ms Sanpedro to put the cigarettes in the credit book for regular customers. She heard that Mr Meek had died the next day. Ms Sanpedro had known Mr Meek for three years. He usually bought one packet of Horizon cigarettes, not two.¹¹⁷

124. At 7:30am, Mr Meek came to Mr Kane's door and gave him a dozen Horizon brand cigarettes. Mr Kane noted this, as this was Mr Meek's brand of cigarettes, whereas Mr Kane usually smoked White Ox tobacco or Longreach.¹¹⁸

125. Mr Kane described Mr Meek's clothing: "When I last saw Jim I recall he was wearing long pants, a collared t shirt and a jumper of some sort over that. I can't remember what he was wearing on his feet, but I remember during the last few weeks he has always been wearing rubber thongs when he has been walking the dogs in the park".¹¹⁹

126. Stephen Donnellan was a District Operator employed by Sydney Electricity. His work involved interrupting the power supply to premises to allow other people to work on equipment safely. On 7 March 1995, he completed an "Access Permit to Work" for the interruption of power to the Northcott Flats. He reviewed that document and told Police that it reflected that the Sydney Electricity power to Northcott Flats was interrupted between 9am and 11.05am.¹²⁰

¹¹⁵ Statement of Robert Garratt, 11 March 1995, [7] (SCOI.10002.00003) at [7]. In his initial statement to police, Mr Garratt stated that he went to Mr Meek's flat on Sunday, 5 March 1995 and watched a film called K9. However, he subsequently checked the TV guide and saw that the movie was actually on Monday, 6 March 1995 and that it was called "K2" rather than "K9". He provided subsequent statements to the police to that effect: Second Statement of Robert Garratt, 5 April 1995 (SCOI.10004.00047); Third Statement of Robert Garratt, 19 September 1995 (SCOI.10004.00048).

¹¹⁶ Statement of Brian Kane, 11 March 1995, [6] (SCOI.10004.00052).

¹¹⁷ Statement of Carmen Sanpedro, 20 May 1995 [3]-[4] (SCOI.10002.00051).

¹¹⁸ Statement of Brian Kane, 11 March 1995, [6] (SCOI.10004.00052).

¹¹⁹ Statement of Brian Kane, 11 March 1995, [7] (SCOI.10004.00052).

¹²⁰ Statement of Stephen Donnellan, 21 September 1995, [3]-[6] (SCOI.10005.00077).

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127. At about 9:30am Mr Garratt telephoned Mr Meek. There was no answer.¹²¹
128. Mr Meek was a regular caller to various radio stations. In particular, he regularly called 2WS FM 101.7 in the morning. Peter Graham was a radio announcer at that station. He had come to know Mr Meek over the previous six months, as Mr Meek would call the station on a daily basis and would speak to Mr Graham, either on or off air.¹²² Mr Graham recalled receiving a telephone call from Mr Meek on Tuesday, 7 March 1995 at about 10:30am.¹²³
129. Between 11:00am and midday, Mr Kane left his flat. He noticed that Mr Meek’s flyscreen door was slightly open and that there was a rolled-up newspaper between the flyscreen door and the front door. He opened the flyscreen door and knocked on the front door. Mr Meek did not answer. As soon as Mr Kane knocked, Mr Meek’s dogs started to bark. He waited a few minutes and knocked again. The dogs barked again. Mr Kane thought this was unusual because of the newspaper between the doors and because “the dogs wouldn’t usually bark if he wasn’t in the unit with them”.¹²⁴
130. The NSWPF obtained a statement from Kevin Plumb. As is explained at [181]-[182] below, Mr Plumb accepted at Mr Heatley’s trial that he was mistaken in some aspects of his evidence. Mr Plumb said that on 7 March 1995, his flatmate Peter Sharp walked their dog at about 7:30am and returned to the flat at about 7:45am. Mr Sharp told Mr Plumb that he saw Mr Meek walking his dogs.¹²⁵
131. Mr Plumb took his dog for another walk at about 9:15am. He took the stairs because the lifts were out. He saw Mr Meek walking his dogs again. He returned to his flat at about 9:45am. He took the lift, which was working by this time. Mr Plumb said that the power was on by this time, and he described doing the laundry.¹²⁶ Mr Plumb’s evidence is impossible to reconcile with the evidence that the power was off at the Northcott Flats on Tuesday, 7 March 1995 between 9:00am and 11:05am.
132. Mr Plumb said that at 11:00am, he went down in the lift with his dog because he wanted to talk to the postman, Stephen Watson, and to walk his dog again. He said that he spoke to Mr Watson for about 10 minutes while Mr Watson was putting mail into people’s letterboxes. He said that, while they were talking, Mr Meek walked over from the lift area. Mr Watson handed him two letters. Mr Meek then

¹²¹ Statement of Robert Garratt, 11 March 1995, [9] (SCOI.10002.00003). Mr Garratt clarified the date of this phone call in his subsequent statement.

¹²² Statement of Peter Graham, 23 March 1995, [6]-[7] (SCOI.10004.00050).

¹²³ Statement of Peter Graham, 23 March 1995, [11] (SCOI.10004.00050). The evidence that Mr Meek called Mr Graham at 10:30am is not inconsistent with the evidence that the power was out at the time. A landline phone such as Mr Meek’s took its power from the local telephone exchange and could continue working while the power was out.

¹²⁴ Statement of Brian Kane, 11 March 1995, [8] (SCOI.10004.00052).

¹²⁵ Statement of Kevin Plumb, 14 September 1995, [4] (SCOI.10005.00105).

¹²⁶ Statement of Kevin Plumb, 14 September 1995, [5]-[6] (SCOI.10005.00105).

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walked out through the single glass doors which lead from the ■-block of Northcott Flats to the ■-block.¹²⁷

133. Mr Plumb recognised Mr Meek’s ring and he said that he “definitely saw him wearing that ring on the ring finger of his right hand when he was given the mail by Stephen at 11am on Tuesday the 7th March, 1995”.¹²⁸ Mr Plumb said that Mr Meek was wearing “a light coloured ‘T’ shirt and darker coloured shorts, like stubbies, and thongs.”¹²⁹ Ms McMahon’s evidence was that Mr Meek always wore the tiger’s eye ring on the ring finger of his *left* hand, and that he did not take it off for any reason.¹³⁰
134. The NSWPF also obtained a statement from Peter Sharp, Mr Plumb’s flatmate. Mr Sharp told Police that the last time he saw Mr Meek was on “Tuesday the 6 March, 1995”.¹³¹ 6 March 1995 was a Monday, not a Tuesday. Mr Sharp later addressed this issue in evidence, saying that he saw Mr Meek on Tuesday, 7 March 1995.¹³²
135. Mr Sharp told the NSWPF that he took his dog for a walk between 7:00am and 7:30am on that day. He saw Mr Meek walking his dogs. Mr Meek was wearing “a pair of khaki coloured shorts and a ‘Bonds penguin’ style shorts [sic]. He had thongs on his feet”.¹³³ Mr Sharp later corrected the reference to ‘Bonds penguin’ style “shorts” to “shirt”.¹³⁴
136. Stephen Watson told the NSWPF:

“On Tuesday the 7 March 1995, I was speaking with a person by the name of Kevin PLUMB at the letter boxes in the foyer area of the Northcott Flats about 11:15am when James MEEK came over and started talking to us. He appeared in good spirits and talked briefly about the mail. I remember giving him one letter that was insufficiently addressed.”¹³⁵

137. At Mr Heatley’s trial, Mr Watson accepted that this may have occurred on Monday, 6 March 1995, rather than on Tuesday, 7 March 1995 (see [183] below).
138. **NP219** was a resident of Northcott Flats who knew Mr Meek. She said she had seen Mr Meek walking his dogs between 11:30am and midday on Tuesday, 7 March 1995.¹³⁶ Ms **NP219** said that she

¹²⁷ Statement of Kevin Plumb, 14 September 1995, [6] (SCOI.10005.00105).

¹²⁸ Statement of Kevin Plumb, 14 September 1995, [8] (SCOI.10005.00105).

¹²⁹ Statement of Kevin Plumb, 14 September 1995, [6] (SCOI.10005.00105).

¹³⁰ Statement of Mercedes McMahon, 19 June 2023, [9] (SCOI84007).

¹³¹ Statement of Peter Sharp, 14 September 1995, [4] (SCOI.10005.00112).

¹³² R v Michael Alan Heatley – Trial Transcript, 16-25 November 1996, T76.30-48 (SCOI.82969).

¹³³ Statement of Peter Sharp, 14 September 1995, [4]-[5] (SCOI.10005.00112).

¹³⁴ R v Michael Alan Heatley – Trial Transcript, 16-25 November 1996, T76.30-34 (SCOI.82969).

¹³⁵ Statement of Stephen Watson, 19 May 1995, [6] (SCOI.10005.00115).

¹³⁶ Statement of **NP219**, 28 March 1995, [10] (SCOI.10002.00037).

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saw Mr Meek outside the window of her unit in the park.¹³⁷ Ms [NP219] said that she remembered the time she saw Mr Meek because she had to meet someone at the taxi club at midday. That was a 30-minute walk from her unit, and she arrived there at 12:15pm.¹³⁸

139. Between midday and 1:30pm, Mr Kane got a phone call from Gael McKay, who was a member of the Estates Advisory Board. She was concerned that Mr Meek had not come to the meeting of the Board that morning.¹³⁹ Ms McKay had tried calling Mr Meek from just after 10:00am and had received no answer. She confirmed that she then rang Mr Kane. She asked Mr Kane to have Mr Meek contact her when he saw him. Mr Kane told Ms McKay that he would leave a note on Mr Meek's door. Ms McKay continued trying to ring Mr Meek throughout the day, "about every two hours".¹⁴⁰
140. Mr Kane wrote a note on a blue piece of paper for Mr Meek to ring Ms McKay. He stuck it on the main door of Mr Meek's unit with sticky tape. He knocked again. Mr Meek did not answer. The dogs barked again.¹⁴¹ In a subsequent statement, Mr Kane provided the following further details of the note:

"I took the note off the screen door on Wednesday afternoon whilst talking to Constable RICHMOND and offered it to her but she said they didn't require it. I took the note home and may still have it. On the note I wrote in the top right hand corner, '11am Tues, 7/3/95'. A little bit below and to the left of the page I wrote, Jim. The underneath that I wrote, 'Gail rang urgently needs to talk to you regarding EAB meeting today ring her on 3103151. I then wrote my name, 'Brian', under which I drew a line and put two full stops after it, which is my normal way of signing informally."¹⁴²

141. It is not clear why Mr Kane wrote "11am" on the note.

Tuesday afternoon (7 March 1995)

142. Michael Lawrence was another friend of Mr Meek and a resident of Northcott Flats. He tried to call Mr Meek throughout the day on 7 March 1995 without success.¹⁴³ In the early afternoon, he went to Mr Meek's flat. He saw that the security door was unlocked and that there was newspaper between the

¹³⁷ R v Michael Alan Heatley – Trial Transcript, 16-25 November 1996, T377.8 (SCOI.82969).

¹³⁸ R v Michael Alan Heatley – Trial Transcript, 16-25 November 1996, T377.19-58 (SCOI.82969).

¹³⁹ Statement of Brian Kane, 11 March 1995, [9] (SCOI.10004.00052).

¹⁴⁰ Statement of Gael McKay, 17 July 1995, [8]-[9] (SCOI.10005.00102).

¹⁴¹ Statement of Brian Kane, 11 March 1995, [9] (SCOI.10004.00052).

¹⁴² Second Statement of Brian Kane, 11 July 1995, [13] (SCOI.10001.00146).

¹⁴³ Statement of Michael Lawrence, 11 March 1995, [8] (SCOI.10001.00140).

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security door and the wooden door. He noticed the message from Mr Kane on the door. He opened the security door and knocked on the wooden door. There was no answer.¹⁴⁴

143. Mr Kane heard Mr Lawrence knocking on Mr Meek's door and came out of his flat. They asked each other where Mr Meek was. They banged on Mr Meek's door and on the glass of the kitchen and bathroom windows. The only reaction was from the dogs, who barked.¹⁴⁵
144. That afternoon, Mr Garratt did his rounds as a security guard. At 5:15pm, he got to Mr Meek's flat. He noted that the security screen door was unlocked and open,¹⁴⁶ and that there were newspapers stuck between the screen door and the main door. The main door was locked. Mr Garratt found this very unusual as Mr Meek was "very paranoid about locking the door, whether he was home or not". Mr Meek did not answer the door when Mr Garratt called out to him. Mr Garratt continued to check Meek's flat during his patrol. Mr Garratt noted that Mr Meek's dogs were still in the flat and that his car was still parked in the carpark.¹⁴⁷
145. At about 9:00pm, Mr Garratt was still concerned about Mr Meek. He went to Mr Meek's flat and put some tape on the door, which would fall out if anyone opened the door, to indicate whether anyone had been home. Mr Garratt told Mr Lawrence about the tape.¹⁴⁸

Wednesday (8 March 1995)

146. On the morning of 8 March 1995, Mr Lawrence told Mr Garratt that the tape was still there on Mr Meek's door. He said that he was going to see Bill Coffey, the manager of the buildings at Northcott Flats, about getting a locksmith to enter Mr Meek's flat.¹⁴⁹
147. At about 3:00pm, Mr Lawrence called Surry Hills Police.¹⁵⁰ At about 3:30pm, Constable Richmond and Constable Humphreys attended Mr Meek's flat. They gained entry with the assistance of a locksmith. They found Mr Meek lying face down on the floor directly in front of the door in the entrance hall. Mr Coffey identified Mr Meek to police.¹⁵¹

¹⁴⁴ Statement of Michael Lawrence, 11 March 1995, [10]-[12] (SCOI.10001.00140).

¹⁴⁵ Statement of Brian Kane, 11 March 1995, [10] (SCOI.10004.00052).

¹⁴⁶ The security door was opened by Michael Lawrence when trying to contact Meek, although it was already unlocked at that point: see Statement of Michael Lawrence, 11 March 1995 (SCOI.10001.00140).

¹⁴⁷ Statement of Robert Garratt, 11 March 1995, [10] (SCOI.10002.00003); Second Statement of Robert Garratt, 5 April 1995 (SCOI.10004.00047); Third Statement of Robert Garratt, 19 September 1995 (SCOI.10004.00048); R v Michael Alan Heatley – Trial Transcript, 16-25 November 1996, T38.1-40 (SCOI.82969).

¹⁴⁸ Statement of Robert Garratt, 11 March 1995, [12] (SCOI.10002.00003); Second Statement of Robert Garratt, 5 April 1995 (SCOI.10004.00047); Third Statement of Robert Garratt, 19 September 1995 (SCOI.10004.00048); R v Michael Alan Heatley – Trial Transcript, 16-25 November 1996, T38.1-40 (SCOI.82969); Statement of Michael Lawrence, 11 March 1995, [17] (SCOI.10001.00140).

¹⁴⁹ Statement of Robert Garratt, 11 March 1995, [12]-[13] (SCOI.10002.00003).

¹⁵⁰ Statement of Michael Lawrence, 11 March 1995, [21] (SCOI.10001.00140).

¹⁵¹ Statement of Constable Saeran Humphreys, [3]-[5] (SCOI.10001.00005).

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148. There was a small amount of blood around Mr Meek's nose, which had dried. His face was a deep purple-grey colour and it appeared to be slightly bloated. Mr Meek was wearing a grey t-shirt, light blue shorts and rubber thongs.¹⁵² Mr Meek was holding a set of keys in his right hand. The house key was positioned between the index and middle finger of his right hand.¹⁵³
149. Mr Meek's glasses were lying on the floor next to his head. A shoeprint was visible on the spectacles, reflecting that they had been stepped on. Analysis of the shoeprint was insufficient to match it to a particular style of shoe.¹⁵⁴
150. There was no sign of forced entry to Mr Meek's flat and there was no sign of a struggle. The flat was untidy, but it did not appear to have been ransacked or recently disturbed.¹⁵⁵
151. Various people described Mr Meek as being security conscious.¹⁵⁶ One friend, Robert Woodward, said that Mr Meek would lock the security door to his flat even if someone was in the flat with him, and that Mr Meek would keep a baseball bat behind the front door for security.¹⁵⁷
152. Police identified that two items of property had been removed from Mr Meek's body: a Citizen band quartz ring with silver band which was engraved on the rear of the watch, and a men's gold-banded dress ring with a tiger's eye stone.¹⁵⁸ Mr Meek was known to wear the tiger's eye ring on his ring finger.¹⁵⁹
153. Police found a used condom on top of the chest of drawers in Mr Meek's bedroom, along with a number of homosexual pornographic magazines and a blue bum bag.¹⁶⁰ The used condom was not taken into evidence.

Mr Heatley's account of events

154. On 22 June 1995, Police interviewed Michael Heatley in Tasmania, having identified him by way of a fingerprint as outlined above at [33]. Mr Heatley claimed that Meek was "a friend and that was all"

¹⁵² Statement of Constable Saeran Humphreys, [4]-[7] (SCO.10001.00005). See also Crime Scene Photographs, 8 March 1995, 8, 10-16 (SCOI.10402.00095).

¹⁵³ Statement of Constable First Class Suzana Whybro, 2 April 1995, [9] (SCOI.10001.00091).

¹⁵⁴ Running Sheet 3/5/1 Taskforce Fireweed Inquiries Concerning Shoe Imprint, 26 April 1995 (SCOI.10001.00083).

¹⁵⁵ Statement of Constable First Class Suzana Whybro, 2 April 1995, [14] (SCOI.10001.00091).

¹⁵⁶ Statement of Wayne Ruscoe, 14 March 1995, [14] (SCOI.10001.00143).

¹⁵⁷ Statement of Robert Woodward, 10 July 1995, [5] (SCOI.10005.00117).

¹⁵⁸ Memorandum re Murder of James Meek, 12 April 1995 (SCOI.10003.00237).

¹⁵⁹ Statement of Wayne Ruscoe, 14 March 1995, [17] (SCOI.10001.00143).

¹⁶⁰ Statement of Constable First Class Suzana Whybro, 2 April 1995, [11] (SCOI.10001.00091).

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who he met through his sister in September 1994 or “maybe before then”.¹⁶¹ Mr Heatley claimed that he would turn up to Meek’s flat unannounced in order to get a sleeping tablet.¹⁶²

155. Mr Heatley was aware that Mr Meek was gay. During the interview, Mr Heatley referred to Mr Meek as “a poofter”. He denied having a sexual relationship with him and denied that Meek had ever suggested having a sexual relationship.¹⁶³

156. Mr Heatley knew that Mr Meek was HIV-positive:

“Karen told me that he had AIDS and everything and I thought ‘Oh,’ and that didn’t – ever since then I just didn’t – I was particular about what I ate and everything from there, if I ever ate anything, ‘cause when he – and after that I didn’t want him to cook my any meals or anything ‘cause I just used to spin out on him having AIDS.”¹⁶⁴

157. Tasmanian Police interviewed Mr Heatley’s sister, Karen Heatley. Ms Heatley claimed that “basically no one’s homophobic in our family”.¹⁶⁵ She also said: “when I found out he had AIDS, like, I told Christine and she didn’t have any reaction and I told Michael and he didn’t either”.¹⁶⁶

158. Ms Heatley had no recollection of Mr Meek “being touchy or anything like that” with Mr Heatley.¹⁶⁷

159. Police asked Mr Heatley about the last time that he attended Mr Meek’s flat. He did not recall the date or even the month. Mr Heatley said that he arrived between 5:30pm and 7:00pm. He asked if he could stay the night. He said that Mr Meek “ummed and aahed” and then said that he could stay “1 night and that’s all”. He described sitting up at the table with Meek and the security guard: “talking, just laughing and joking. I was smoking marijuana, Jim’s marijuana, watched a few movies”. He said that they watched movies until 11:00pm or midnight.¹⁶⁸

160. Mr Heatley said that he slept on the couch and that Mr Meek slept in his bed. He said that Mr Meek woke him up at about 7:00am the next morning. He said that he had a shower, cooked a few pieces of toast, had the toast, “had a few more bongs and then virtually left”. Mr Heatley said that before he

¹⁶¹ Transcript of ERISP with Michael Heatley, 22 June 1995, Q65-A67 (SCOI.10005.00047).

¹⁶² Transcript of ERISP with Michael Heatley, 22 June 1995, Q79-A82 (SCOI.10005.00047).

¹⁶³ Transcript of ERISP with Michael Heatley, 22 June 1995, Q83-A87 (SCOI.10005.00047).

¹⁶⁴ Transcript of ERISP with Michael Heatley, 22 June 1995, A77 (SCOI.10005.00047).

¹⁶⁵ Transcript of Recorded Interview with Karen Heatley, 22 June 1995, A43 (SCOI.10012.00105).

¹⁶⁶ Transcript of Recorded Interview with Karen Heatley, 22 June 1995, A58 (SCOI.10012.00105).

¹⁶⁷ Transcript of Recorded Interview with Karen Heatley, 22 June 1995, A77 (SCOI.10012.00105).

¹⁶⁸ Transcript of ERISP with Michael Heatley, 22 June 1995, Q88-A98 (SCOI.10005.00047).

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left, he went next door and got a Tally-ho and some tobacco from Meek's next-door neighbour, and that he rolled a joint.¹⁶⁹ Mr Heatley claimed that he left the flat "before 9 o'clock".¹⁷⁰

161. Mr Heatley thought that Mr Meek bought the loaf of bread that he used to make toast that morning because the bread was new and the crust was right on the top.¹⁷¹ Mr Heatley said that he and Mr Meek "played radio games...He rang 2WS to see if he could ring a – win a prize, 'cause he'd won prizes from them before, and he rang up 2WS".¹⁷²
162. Mr Heatley also said that Mr Meek made and received phone calls while he was at the flat. He did not know who Mr Meek spoke to on the phone but he said, "only a few people rang him, though, I think".¹⁷³
163. Mr Heatley admitted that he stole a ring from Meek. He claimed that he stole it from a locker cabinet drawer. He described the ring as "gold with a brown flecked stone in the top of it".¹⁷⁴ Mr Heatley denied stealing anything else from the flat.¹⁷⁵
164. Police subsequently obtained a statement from Brian Kane, Mr Meek's neighbour. He described an interaction with a young man who was staying with Mr Meek. He came to Mr Kane's door at approximately 10:30am and asked: "Do you have any Tally Ho [cigarette] papers? Can I have two? Jim told me to ask you". Mr Kane gave the young man two cigarette papers. Mr Kane described seeing Mr Meek leaning out his flyscreen door, apparently waiting for the young man to return.¹⁷⁶
165. Mr Kane described this young man as "very good looking and in my own words gorgeous".¹⁷⁷
166. Mr Kane claimed that this interaction occurred on Monday, 6 March 1995. Mr Kane said that he met Mr Meek between 1:00pm and 3:00pm that Monday and that they walked their dogs together. He said that he asked Mr Meek, "Where did you pick him up and is he any good?" Mr Kane said that Mr Meek told him that he found the man at a beat in a town somewhere in the Blue Mountains on Saturday afternoon. Mr Meek reportedly said: "He is a very succulent number". Mr Kane understood this to mean "that Jim had sucked this guy off and the guy had blown in Jim's mouth quite a few times since Saturday afternoon and that it had tasted nice to Jim. Jim did tell me that he sucked this guy off a

¹⁶⁹ Transcript of ERISP with Michael Heatley, 22 June 1995, Q116-A117 (SCOI.10005.00047).

¹⁷⁰ Transcript of ERISP with Michael Heatley, 22 June 1995, Q101-A106 (SCOI.10005.00047).

¹⁷¹ Transcript of ERISP with Michael Heatley, 22 June 1995, A282 (SCOI.10005.00047).

¹⁷² Transcript of ERISP with Michael Heatley, 22 June 1995, Q203-A204 (SCOI.10005.00047).

¹⁷³ Transcript of ERISP with Michael Heatley, 22 June 1995, Q284-A286 (SCOI.10005.00047).

¹⁷⁴ Transcript of ERISP with Michael Heatley, 22 June 1995, Q107-A114 (SCOI.10005.00047).

¹⁷⁵ Transcript of ERISP with Michael Heatley, 22 June 1995, Q201-A202 (SCOI.10005.00047).

¹⁷⁶ Second Statement of Brian Kane, 11 July 1995, [5] (SCOI.10001.00146).

¹⁷⁷ Second Statement of Brian Kane, 11 July 1995, [10] (SCOI.10001.00146).

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number of times but I can't recall the actual words". Mr Meek also told Mr Kane that the man "was a good cuddler and good tongue kisser".¹⁷⁸

167. There is no other evidence that places Mr Heatley at Mr Meek's flat overnight on 5 March 1995 or on the morning of 6 March 1995. The evidence of Carole King suggests that Mr Meek was elsewhere between 1:00pm and 3:00pm on 6 March 1995, which casts doubt on the temporal aspect of Mr Kane's recollection. It is possible that the conversation Mr Kane recalled was about another man, who Mr Meek had "picked up" over the weekend and/or that the conversation had taken place on a different day and concerned either Mr Heatley or another man.

168. Mr Heatley described leaving Mr Meek's flat as follows:

"Jim said, 'Unless you want the cherry pickers to come and pick you up, the fire engines to pick you up, you're gonna have to leave or whatever, because the lifts aren't going to be working.' So anyway I said, 'Okay, then' and, anyway, I rolled a joint and I tasted a little bit of his leaf from his ... and then I left. I went down and he said, 'Go down' – he said, 'Use the stairwell,' and so, anyway, I used the stairwell, walked along, used the lifts. The lifts weren't working so I walked back along and walked back up the stairwell, knocked on his door and I told him that they weren't working and he said, 'Sing out to 'em, then.' I sang out to the fella down at the fire engine, told him that the lifts weren't working and he said, 'No, that's all right.' One of the fellas went in, then come out. So anyway, I said, 'Okay, then,' said goodbye to Jim, walked back down, walked along, pressed the button on the lift, it opened, went down..."¹⁷⁹

169. A statement was subsequently obtained from a representative of the NSW Fire Brigade, who said that there was no record of a fire engine attending the Northcott Flats on that date.¹⁸⁰

170. What did occur on 7 March 1995 was that Sydney Electricity attended the Northcott Flats. Stephen Donnellan was an area operator with Energy Australia. His evidence was that he attended the Northcott Flats to conduct electrical maintenance work on 7 March 1995. The power was cut off some time prior to 9:00am on that date to allow for the maintenance work, and was restored at around 11:05am. The contemporaneous documentary records confirmed this.¹⁸¹ This is consistent with Mr Heatley's evidence that Mr Meek told him that the lifts would not be working and with his evidence

¹⁷⁸ Second Statement of Brian Kane, 11 July 1995, [6]-[8] (SCOI.10001.00146).

¹⁷⁹ Transcript of ERISP with Michael Heatley, 22 June 1995, Q123 (SCOI.10005.00047).

¹⁸⁰ Statement of Ray Kelly, 4 August 1995, [4]-[5] (SCOI.10005.00096).

¹⁸¹ R v Michael Alan Heatley – Trial Transcript, 16-25 November 1996, T71.41-75.11 (SCOI.82969).

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that the lifts did not work the first time he tried. On Mr Heatley's account, the lifts worked the second time he tried to use them, after he called down to the person at the ground floor (likely the electrician, not the fire brigade).

171. Mr Heatley said he took the ring to the "hockshop" in Merrylands to see if he could get some money for it.¹⁸² He went with his father's cousin, Roger Griffiths (who went by the alias Roger Cochrane).¹⁸³ He said that he did not tell Mr Griffiths that he had stolen the ring. He said he received \$40 for the ring. He said he took the ring to the "hockshop" the same day he stole it.¹⁸⁴
172. On 22 June 1995, Police attended King's Loan Office, 142 Merrylands Road, Merrylands. They spoke to Ian Puddicombe, the owner of the pawnshop. They examined his purchase book and pawn receipts. They took possession of a ring matching the description of Mr Meek's ring, which had been sold by Roger Cochran at 1:30pm on 7 March 1995.¹⁸⁵
173. Mr Puddicombe told Police that Mr Heatley had first tried to sell the ring at 1:15pm, but that he had refused to buy it at that time because he thought Mr Heatley was underage and he did not have identification. He said that Mr Heatley returned to the store with Roger Cochran, at which point he bought the ring.¹⁸⁶
174. Mr Heatley travelled to Merrylands by train. He told Police that he "got done for not having a ticket or the inspector at Granville got me at Granville for not having a ticket".¹⁸⁷ Transit Police had no record of any infringement notice for Mr Heatley, nor of any infringement notice issued in Granville or Lidcombe on 7 March 1995.¹⁸⁸ There is no reason to doubt that Mr Heatley travelled by train.
175. Mr Griffiths provided a statement to Police on 11 July 1995 which was broadly consistent with Mr Heatley's account. He said that on 7 March 1995, he walked to Merrylands with Mr Heatley from his house at 8 Crosslands Street, Merrylands. He recalled that Mr Heatley told him he was broke and desperate and that he was going to sell his father's ring.¹⁸⁹
176. Mr Griffiths went to the Billabong Hotel while Mr Heatley went to King's Loan Office. About ten minutes later, Mr Heatley came into the pub to ask if he could vouch for him at King's Loan Office. Mr Griffiths went to King's Loan Office and spoke to the proprietor. Mr Heatley pawned the ring in

¹⁸² Transcript of ERISP with Michael Heatley, 22 June 1995, Q126-A127 (SCOI.10005.00047).

¹⁸³ R v Michael Alan Heatley – Trial Transcript, 16-25 November 1996, T331.44-50 (SCOI.82969)

¹⁸⁴ Transcript of ERISP with Michael Heatley, 22 June 1995, Q133-A143 (SCOI.10005.00047).

¹⁸⁵ Situation Report, 12 July 1995, (SCOI.10005.00024).

¹⁸⁶ Statement of Ian Puddicombe, 2 August 1995, [4]-[5] (SCOI.10005.00106).

¹⁸⁷ Transcript of ERISP with Michael Heatley, 22 June 1995, A289 (SCOI.10005.00047).

¹⁸⁸ Statement of Michael Banning, 13 July 1995, [5]-[6] (SCOI.10005.00070).

¹⁸⁹ Statement of Roger Griffiths, 11 July 1995, [7] (SCOI.10005.00091).

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Mr Griffiths' name.¹⁹⁰ At the time he made his statement, Mr Griffiths was not sure whether Mr Heatley had stayed with him the night before.¹⁹¹

177. Mr Heatley said that he subsequently went to stay with his sister's boyfriend, Roger Bissett, and with Bob Woodward. He said he stayed there for a couple of nights before Mr Woodward complained about the rent, at which point he went to stay with Mr Griffiths. After that, Mr Heatley lived "just on the street".¹⁹² Mr Woodward was a friend of Mr Meek's and also knew the Heatleys as a family. He confirmed that Mr Heatley stayed with him for two nights in the week after Mr Meek died.¹⁹³
178. Mr Woodward told Police: "To my knowledge [Michael] knew Jim was gay, but when ever anyone mentioned gays or homosexuals, Michael would take offence and say things like 'I'm not a dirty poof'."¹⁹⁴
179. Each of Mr Kane,¹⁹⁵ Mr Plumb,¹⁹⁶ Mr Garratt,¹⁹⁷ Mr Puddicombe,¹⁹⁸ and Mr Sharp¹⁹⁹ subsequently identified Mr Heatley from a photobook shown to them by Police.
180. On 11 November 1998, Police retraced Mr Heatley's steps based on the combined accounts of Mr Griffiths and Mr Heatley. They left Mr Meek's flat at 10:53am and walked to Central Station. They took a train to Merrylands. They walked from Merrylands Station to Mr Griffith's house. They then walked back to Merrylands Station. They then walked from Merrylands Station to the Billabong Hotel, which was roughly across the road from the King's Loan Office.²⁰⁰ Police measured the time it took to complete this journey with a stopwatch. The journey took 93 minutes and 20 seconds.²⁰¹

The basis of Mr Heatley's acquittal

181. During the trial, the defence cross-examined Mr Plumb about his evidence that the power was off at 9:30am, but that it was back on by 9:45am on the day he saw Mr Meek in the foyer of the Northcott Flats. This was at odds with the evidence which established that the power was off between 9:00am and 11:05am on 7 March 1995. The defence put the following proposition to Mr Plumb:

¹⁹⁰ Statement of Roger Griffiths, 11 July 1995, [8] (SCOI.10005.00091).

¹⁹¹ Statement of Roger Griffiths, 11 July 1995, [7] (SCOI.10005.00091).

¹⁹² Transcript of ERISP with Michael Heatley, 22 June 1995, A145-A161 (SCOI.10005.00047).

¹⁹³ Statement of Robert Woodward, 10 July 1995, [12] (SCOI.10005.00117).

¹⁹⁴ Statement of Robert Woodward, 10 July 1995, [11] (SCOI.10005.00117).

¹⁹⁵ Statement of Detective Sergeant Anthony Tanos, 20 September 1995, [19] (SCOI.10004.00064).

¹⁹⁶ Statement of Detective Sergeant Anthony Tanos, 20 September 1995, [20] (SCOI.10004.00064).

¹⁹⁷ Statement of Detective Sergeant Anthony Tanos, 20 September 1995, [21] (SCOI.10004.00064).

¹⁹⁸ Statement of Detective Senior Constable Neil Walker, 20 September 1995, [18] (SCOI.10004.00011).

¹⁹⁹ Statement of Detective Senior Constable Neil Walker, 20 September 1995, [19] (SCOI.10004.00011).

²⁰⁰ R v Michael Alan Heatley – Trial Transcript, 16-25 November 1996, T364.31-T365.30 (SCOI.82969).

²⁰¹ R v Michael Alan Heatley – Trial Transcript, 16-25 November 1996, T365.23-25 (SCOI.82969).

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“If it is the case that there was a day in early March 1995 in which the Sydney Electricity power authority cut off the substation servicing part of the Northcott Flats...If there was a day when that happened, that the power was cut off from some time just before 9 o’clock to 11 o’clock continuously, no power at all between 9 o’clock and 11 o’clock because the substation is cut off, that is not the day you were talking about, is it?”²⁰²

182. Mr Plumb accepted that proposition and that it was not possible for the day he saw Mr Meek to be the same day that the power was cut. This cast doubt on his evidence about seeing Mr Meek alive on 7 March 1995. The defence submitted that the conversation described by Mr Plumb “must have been the Monday”.²⁰³ The defence also cross-examined Mr Plumb about his evidence that he saw Mr Meek wearing the ring. That cross-examination led the trial judge to conclude that it was “highly improbable that he would even be able to make the observation and especially if he wasn’t specifically looking”.²⁰⁴
183. The defence also cross-examined Mr Watson. Mr Watson accepted that it was possible that he had spoken to Mr Meek on Monday, 6 March 1995 rather than Tuesday, 7 March 1995.²⁰⁵
184. Mr Griffiths gave evidence at the trial that Mr Heatley had come to his home at Merrylands “no later than 11 o’clock” on 7 March 1995.²⁰⁶ Mr Griffiths was asked how he knew that Mr Heatley had come to his home that morning, when he had previously told Police that he did not know if Mr Heatley had stayed over the night before:

“Q. Do you know whether or not Michael, that is the accused, stayed at your place the night before?

A. Well as I said to Detective Walker, I wasn't sure if he had stayed the night before or if he arrived that morning.

Q. And you are still not sure, is that correct - you are still not sure?

A. No, I believe that he did arrive that morning because, I mean this happened - three years ago - yes - but at the time when I spoke to Detective Walker, I wasn't sure but yes – he arrived that morning.

²⁰² R v Michael Alan Heatley – Trial Transcript, 16-25 November 1996, T200.28-201.5 (SCOI.82969).

²⁰³ R v Michael Alan Heatley – Trial Transcript, 16-25 November 1996, T419.52 (SCOI.82969).

²⁰⁴ R v Michael Alan Heatley – Trial Transcript, 16-25 November 1996, T426.55-57 (SCOI.82969).

²⁰⁵ R v Michael Alan Heatley – Trial Transcript, 16-25 November 1996, T125.52-126.34 (SCOI.82969).

²⁰⁶ R v Michael Alan Heatley – Trial Transcript, 16-25 November 1996, T334.15-35 (SCOI.82969).

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Q. And how is it that you know he arrived that morning now as opposed to when you spoke to Detective Walker, in 1995?

A. Because I have had time to think about it. At the time when Detective Walker spoke to me I really wasn't too concerned with it."²⁰⁷

185. Mr Griffiths was asked what he did the morning after Mr Heatley arrived at his flat. He said:

"Well I fed the cats, heated up water on the stove, ran a bath. I didn't have a hot water system - had a bath. I didn't drop everything the minute he came home. I got dressed, got the Cadillac and went to Merrylands."²⁰⁸

186. He said that he and Mr Heatley walked to Merrylands.²⁰⁹

187. In light of the concessions which were made under cross-examination by Mr Plumb and Mr Watson, the defence applied for a directed acquittal. The trial judge accepted that the evidence was not sufficient for the jury to convict Mr Heatley and accordingly directed the jury to deliver an acquittal.²¹⁰

The available hypotheses

188. There are four hypotheses that emerge from the evidence tendered publicly before the Inquiry:

- a. *First*, Mr Heatley was responsible for the injuries that caused Mr Meek's death;
- b. *Second*, Mr NP220 was responsible for the injuries that caused Mr Meek's death;
- c. *Third*, Ms NP219 was responsible for the injuries that caused Mr Meek's death;
- d. *Fourth*, a person or persons unknown were responsible for the injuries that caused Mr Meek's death.

189. With respect to Mr NP220 we submit that it would not be open on the evidence for a finding to be made that it is more probable than not that Mr NP220 was responsible for the injuries that caused Mr Meek's death.

²⁰⁷ R v Michael Alan Heatley – Trial Transcript, 16-25 November 1996, T334.58-335.16 (SCOI.82969).

²⁰⁸ R v Michael Alan Heatley – Trial Transcript, 16-25 November 1996, T335.28-31 (SCOI.82969).

²⁰⁹ R v Michael Alan Heatley – Trial Transcript, 16-25 November 1996, T335.33-37 (SCOI.82969).

²¹⁰ R v Michael Alan Heatley – Trial Transcript, 16-25 November 1996, T428 (SCOI.82969).

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Submission as to manner and cause of death

190. The Inquiry should find that Mr Meek died in his home on Tuesday, 7 March 1995 between 11:30am and midday as a result of blunt force injuries to his head consistent with being bashed or kicked. The question of manner and cause is also addressed in the confidential submissions.

Submission as to bias

191. If Mr Meek was killed by someone other than Mr Heatley, there is no evidence concerning a likely motive for the perpetrator. It is possible that such a perpetrator may have been motivated by LGBTIQ bias, for example if it was someone who Mr Meek had invited to his apartment for the purposes of casual sex. However, this is presently a matter of speculation.

192. This is not to say, for the reasons set out below, that there was no evidence of bias crime. In fact, as is set out in subsequent paragraphs, there was evidence of bias crime.

193. If Mr Meek was killed by Mr Heatley (as appears to have been assumed by Strike Force Parrabell), there were bias crime indicators. Witnesses told the NSWPF that they believed Mr Meek and Mr Heatley had been in a sexual relationship, and Mr Heatley was known to hold homophobic views. There was also evidence, in the form of the used condom, that sexual activity may have occurred between Mr Heatley and Mr Meek. In addition, Mr Heatley had said that he used to “spin out” in relation to Mr Meek being HIV positive.

194. It is important to note that, in and of itself, concern about contracting HIV does not indicate an LGBTIQ bias. However, the combination of circumstances in the present case suggests that if Mr Heatley was responsible to Mr Meek’s death, then LGBTIQ bias may have been a factor in the commission of the offence.

195. If Mr Meek was killed by Ms [NP219] there is some evidence to suggest she may have been motivated by an LGBTIQ bias (her dislike of gay men). However, as stated at [71] above, we submit that it would not be safe to make a finding on the basis of this evidence that Ms [NP219] was homophobic. The weight of the evidence suggests that the more likely cause of any violence by Ms [NP219] was her animosity towards Mr Meek because of her belief that Mr Meek was responsible for the death of her dog.

196. If Mr Meek was killed by Mr [NP220] there is some evidence indicative of LGBTIQ bias, However, as noted at [189] above, in our submission it would not be open on the evidence to form the view on the balance of probabilities that Mr [NP220] was responsible for Mr Meek’s death.

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James Emmett SC
Senior Counsel Assisting

Rebecca McEwen
Counsel Assisting