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4 December 2017

Ms Tracey Howe
Senior Solicitor for Crown Solicitor
Crown Solicitors Office
60-70 Elizabeth Street
SYDNEY NSW 2000

Your Reference: 201700011

PSYCHIATRIC REPORT

RE: INQUEST INTO THE DEATH OF MR ANTHONY CAWSEY

Dear Ms Howe

At your request I have prepared this psychiatric report regarding Mr Moses Kelley. In the opinion section I have addressed the instructions provided in your letter dated 21 November 2017.

I understand that you are assisting the Deputy State Coroner in the inquest into the death of Mr Anthony Cawsey, and that you have requested a forensic psychiatric report in relation to this matter. I have reviewed the background material in the letter of instruction, including the assumed facts, the investigation, and the prosecution of Mr Moses Kelley for the murder of Mr Cawsey. As you are aware I assessed Mr Kelley on 30 April 2011 at the Metropolitan Remand and Reception Centre in order to prepare a psychiatric report dated 15 June 2011, in my capacity as a visiting medical officer employed by Justice Health to prepare psychiatric court reports. I have not had any clinical contact with Mr Kelley since.

I have not assessed Mr Kelley again for the purpose of preparing this report. This report is based upon my review of the material provided.

I have read and agree to adhere to the principles of the expert witness code of conduct (Schedule 7 to the Uniform Civil Procedure Rules 2005 (NSW)).

A copy of my abridged curriculum vitae is attached.

SOURCES OF INFORMATION

In the preparation of this report I have obtained information from the following sources:

1. Letter of Instruction from the Crown Solicitor's Office dated 21 November 2017
2. Statement of Detective Senior Constable Melanie Staples dated 9 December 2016.
3. Criminal history of Mr Moses Kelley Printed on 1 December 2016.
4. Police interviews and statements of Moses Kelley.
5. Police interview videos / ERISPs dated 17 January 2010 and 6 October 2015.
6. Civilian statements.
7. Expert reports.
8. Corrective Services NSW.
9. Justice Health.

INFORMATION FROM COLLATERAL SOURCES

Statement of Detective Senior Constable Melanie Staples Dated 9 December 2016

I have reviewed this 95-page statement, as well as the 16 pages of annexures. I note the description of the offence, the murder of Mr Cawsey, including the executive summary, the victimology section, the movements of Mr Cawsey during the period leading up to his murder, the discussion of the possible offender scenarios, and the police case against Mr Kelley.

With respect to Mr Cawsey's death, I note it is documented in Paragraph 10 that he "*sustained a single stab wound to the chest which caused his death*", and his body was located in Centennial Park at 5:56am on 26 September 2009. I note in the same paragraph it is documented that Mr Cawsey attended Centennial Park "*for the purpose of engaging in sexual activity with a male*".

I note the comprehensive discussion regarding Mr Cawsey's death and his behaviour prior to his death. I have not included a summary of this as my psychiatric opinion has been sought primarily regarding Mr Kelley.

I note the discussion of "*mental health issues*" pertaining to Mr Moses Kelley in Paragraphs 194 onwards. I note the concerns raised regarding the possibility that Mr Kelley "*has created or exaggerated a mental health situation because he saw that as being advantageous in his Court proceedings*". I note the subsequent references to entries in the Justice Health medical record, together with the psychiatric report I prepared.

I note in the Conclusion and Opinion section the discussion regarding Mr Kelley's "*inconsistent*" versions of his movements surrounding the period of Mr Cawsey's death, together with the assertion that Mr Kelley made "*deliberate attempts*", "*to distance himself from the Busby's pond area and therefore the crime scene ...*".

Criminal History of Mr Moses Kelley Printed on 1 December 2016

I note Mr Kelley's criminal history dates back to October 2009 with the offences of assault occasioning actual bodily harm, custody of knife in public place, and goods in personal custody suspected being stolen. I note his offending behaviour thereafter, with the final charge of murder dated 6 October 2016 being dismissed.

Police Interviews and Statements of Moses Kelley

I have reviewed the document entitled Overview of Versions Offered by Moses Kelley. I note this document opens, "*Moses Kelley has provided a number of versions to police which are relevant to this investigation*" and I note the subsequent discussion of various interviews with police.

I have reviewed the statement of Moses Kelly dated 3 October 2009. I note the discussion of Mr Kelley's background history and more recent presentation. There is no reference in this statement to the possibility of a mental illness or psychiatric treatment.

I have reviewed the two transcripts – ERISPs – conducted on 17 January 2010 and 6 October 2015. I note Mr Kelley's responses. I have referred to these two interviews in more detail below.

Video – ERISP Dated 17 January 2010 and 6 October 2015

In relation to the ERISP conducted on 17 January 2010 (nearly four months after the murder of Mr Cawsey), I have reviewed the two video clips lasting approximately 27 minutes and approximately 14 minutes:

- In terms of Mr Kelley's appearance and behaviour, I note he was dressed in a T-shirt. His hands were rested under the table for the majority of the interview, and he occasionally used his hands to gesticulate.
- In my view he presented as calm and not overtly distressed. He was not tearful or hostile. I did not see any evidence of abnormal movements or psychomotor agitation.
- Mr Kelley did not appear to be distracted by unseen stimuli, and I saw no behaviour to conclude that he was clearly responding to unseen stimuli such as hallucinations.
- Regarding the form of Mr Kelley's responses, in my view he appeared to follow the line of police questioning, in that the responses he provided appeared to be broadly consistent with the topics under discussion. No responses seemed to be unrelated to the themes of the police questions. His responses appeared to be organised as opposed to disorganised or tangential. Therefore, I saw no evidence to conclude that Mr Kelley was suffering from thought disorder – a psychotic symptom.
- In my view he did not make any bizarre utterances or make reference to idiosyncratic themes consistent with delusional beliefs.

Concerning the ERISP on 6 October 2015 I have watched the three video clips provided – the first two lasting approximately 27 minutes, and the third lasting approximately eight minutes:

- With regards Mr Kelley's appearance and behaviour, during this interview he appeared to be dressed in prison issue clothing. He appeared calm for the most part, although became slightly agitated towards the conclusion of the interview. At no point did he act in a hostile or threatening manner however.

- Mr Kelley was not seemingly distracted by unseen stimuli. There was no evidence of bizarre abnormal movements. His emotional expressions appeared to be relatively restricted in terms of range.
- In terms of the form of Mr Kelley's responses, in my view his responses were consistent with the topics under discussion, and he did not appear to derail or mention themes that were unrelated to the issues under discussion. His thought processes appeared integrated, and I saw no evidence of thought disorder.
- In my opinion he did not mention any ideas that could be considered bizarre or idiosyncratic, in keeping with a delusional belief.
- I note that after approximately 20 minutes into the second video clip he was asked about his "state of mind", and he referred to his concerns about being homeless describing this as a "stressful" situation. At approximately 26 minutes he was asked about his reference to feeling "paranoid", and I note Mr Kelley's answer regarding the diagnosis of schizophrenia that was made some years later. I note when he was asked about the possibility of suffering with schizophrenia at the material time of Mr Cawsey's death, he replied, "I don't know if I was suffering mental problems ... I'm not sure".

Civilian Statements

I have reviewed the statement of [1357] (Mr Moses Kelley's sister) dated 18 January 2016. I note the discussion regarding Mr Kelley's background history. Regarding Mr Moses Kelley's time in Sierra Leone, I note [1357]'s concerns regarding the accuracy of his account, with the conclusion in Paragraph 20, "there is something wrong with Moses. He lies constantly". I note [1357] commented, "I don't know about that" following the discussion of Mr Kelley's contact with mental health services in 2008.

I have reviewed the additional civilian statements provided, the unsigned statement of [1361] dated 23 September 2009, the statement of [1361] dated 30 May 2016, and the first statement of [1359] dated 11 October 2009.

Expert Reports

I have reviewed the psychological assessment report of Dr John Jacmon dated 8 November 2010. I note that Dr Jacmon opined that Mr Kelley suffered with the diagnoses of a "post traumatic stress

disorder, *"depression and anxiety"* and *"a borderline level of IQ"*. There does not appear to be any reference in this report to symptoms in keeping with a psychotic illness.

I have reviewed the two reports of Dr Thomas Clark (forensic psychiatrist) dated 12 April 2011 and 9 June 2011. The body of these reports appears to be consistent, however I note the differences regarding the discussion of the possibility of a psychiatric defence of mental illness. I note that Dr Clark made a diagnosis of schizophrenia and I note the discussion of symptoms of psychosis in the body of the report. I note it is documented, *"Looking back at his mental state at the time of his offence, he was paranoid, fearing that people were after him and that he had experienced hallucinatory voices, with threatening intimidating sexual content"*.

I have re-reviewed the report I prepared dated 15 June 2011, following my assessment of Mr Kelley at the Metropolitan Remand and Reception Centre on 30 April 2011. As depicted in the body of this report Mr Kelley described his traumatic developmental history whilst living in Sierra Leone, preceding the development of features suggestive of mental illness. At the time of my assessment there was no relevant collateral information regarding the alleged offence available, hence I did not discuss this in detail with Mr Kelley. Regarding his mental state at the material time, I documented, *"It must be borne in mind that I have reviewed no collateral information regarding Mr Kelley's presentation prior to his arrest. In my opinion his account was in keeping with symptoms of a psychotic disorder, with associated mood disturbance and posttraumatic features. He also noted continued illicit substance and alcohol use. Review of collateral information would be required to clarify his exact presentation prior to incarceration"*. In this report I reviewed Mr Kelley's most recent Justice Health medical file, and documented, *"Towards the beginning of Mr Kelley's period of incarceration it does not appear that he was reviewed on a regular basis by mental health services"*. I note the discussion of emerging features suggestive of psychosis from July 2010 onwards.

Corrective Services NSW

I note the review of Corrective Services records regarding Mr Moses Kelley which is undated. I note it is documented on Page 1 of this report that there are *"various notes of assault incidents in the electronic case notes"*. I note the various subsequent bulleted entries, primarily by psychology, referring to concerns regarding his presentation. I note the various entries in relation to features consistent with symptoms of psychosis, such as *"auditory hallucinations"*.

I have reviewed the Corrective Services NSW electronic case notes regarding Mr Moses Kelley dated between 20 January 2010 and 4 October 2015. These have been summarised in the above document. Consistent with the Justice Health medical record, referred to above, there does not appear to be any specific concerns regarding Mr Kelley's mental health during the initial months of his incarceration. I

note the numerous features suggestive of symptoms of mental illness in the latter years, including in 2015 when it appears that Mr Kelley was engaged in the VOTP programme. For example I note an entry dated 7 January 2015 that refers to Mr Kelley's *"various paranoid patterns of thinking including that people on their mobiles are speaking about him and that people make assumptions about him"*. It is documented that he was prescribed Seroquel (Quetiapine - antipsychotic and mood stabilising medication) and Risperdal (Risperidone - antipsychotic medication) at this point.

I have reviewed the Corrective Services NSW case file Part 1 and Part 2. I note in the inmate profile document institutional behaviour – breaches of discipline are listed, including *"fight or other combat"*, *"failed to supply urine samples"*, and *"intimidation"*. The subsequent case note entries are consistent with the material reviewed above.

Justice Health

I have reviewed the Justice Health medical record provided, spanning January 2010 through to November 2015.

In the psychiatric report I prepared dated 15 June 2011 I reviewed Mr Kelley's Justice Health medical record from his initial incarceration in January 2010 through to April 2011. I would refer you to this review, and I have not reiterated it here.

Concerning the entries from April 2011 onwards, I note Mr Kelley's ongoing regular review by mental health clinicians. Of specific relevance I note the following:

- I note an entry by Dr White (psychiatry career medical officer) dated 3 May 2011, *"he said the voices are much better ... voices are less distressing, not causing much concern ..."*.
- I note an entry by Dr White dated 28 June 2011, *"voices got a little worse around Court but have gone back to their previous level – 2-3 x/week for 10-15 minutes, mainly coming from the television"*.
- I note an entry by a member of nursing staff on 23 August 2011, *"nursing staff approached by other patient ... stating pt [patient] is selling medications to other patients ..."*.
- I note an entry by a mental health clinician dated 9 December 2011, *"reports non-compliance with Quetiapine 800mg since early November ... guarded ... affect blunted ... denies thought/perceptual disorder ... states involved in fight (not physical) with another inmate yesterday and now is locked in his cell ..."*.

- I note an entry on 10 January 2012, "*self-harm last night. Reports he was assaulted in showers yesterday ...*".
- I note an entry by Dr Samir (psychiatrist) dated 27 February 2012, "*still hears voices ... got scared and started feeling strange ... all my body was numb ... thought he was being poisoned ...*"
- I note the review by psychiatrist on 21 September 2012, '*I'm getting better. I hear male and female voices of my eldest sister and brother ... 5-6 voices ...*'. I note the diagnosis of schizophrenia.
- I note Mr Kelley was reviewed by Dr Roberts (forensic psychiatrist) on 7 May 2013 who documented, "*? paranoid*" on mental state examination. There was no reference to auditory hallucinations on this review, but a diagnosis of schizophrenia is documented.
- I note an entry by psychiatrist on 14 January 2014, "*says still experiences very brief, periods of auditory hallucinations, but not distressed and able to manage them ... denies paranoia ...*". At this point it is noted that Mr Kelley was treated with both Quetiapine and Risperidone.
- On 6 May 2014 I note the same psychiatrist concluded, "*? complex PTSD rather than SCZ [schizophrenia]*".
- I note Mr Kelley was reviewed by Dr Morgans (forensic psychiatrist) on 8 September 2014. I note the reference to various issues in Mr Kelley's background history including the "*rebels*" attacking his village. It is documented, "*he recalls it a bit, 'my mum was killed b/c [because] they thought she was working with the government' ... his dad escaped in the first rebel attack but he returned and the rebels attacked again and he went missing ...*". [I note the concerns referred to above regarding the reliability of Mr Kelley's account however.] I note Dr Morgans recorded a diagnosis of schizophrenia and a posttraumatic stress disorder and recommended an increased dose of Risperidone.
- I note an entry by a psychiatrist dated 22 June 2015, "*doing well. Minimum psychotic symptoms. Attenuated voices. Minimal paranoia ...*". I note the recommendation to decrease the dose of Quetiapine.

OPINION

I have structured my opinion given regard to the questions asked in the letter of instruction.

1. ***In relation to the police interviews conducted on 17 January 2010 and 6 October 2015: did Mr Kelley's presentation during the interviews disclose the existence of a mental illness? If so, what is your diagnosis of the mental illness disclosed? Has that mental illness affected Mr Kelley's cognition, or has his ability to answer questions responsively, truthfully or reliably?***

I have discussed Mr Kelley's presentation during the two police interviews on 17 January 2010 and 6 October 2015 above.

In summary, during both interviews in my opinion Mr Kelley did not manifest any abnormal movements, he did not appear distracted, and there was no evidence of psychomotor agitation. I did not witness any behaviour to suggest that Mr Kelley was responding to unseen stimuli, such as hallucinations, during either of these interviews.

Considering the form of Mr Kelley's responses during both of the police interviews, I did not witness any responses that could be considered to be disjointed or disintegrated, in keeping with thought disorder – a symptom of psychosis (schizophrenia is a psychotic illness). The responses he provided in my opinion were broadly consistent with the questions asked, and he did not appear to provide responses that were entirely inconsistent with the questions. Additionally, in my view Mr Kelley did not provide any answers that could be considered idiosyncratic or bizarre in terms of their content, hence I am not able to conclude that Mr Kelley provided any answers that could be considered delusional (a symptom of psychosis).

Therefore, based upon my viewing of the two police interviews conducted on 17 January 2010 and 6 October 2015, I am not able to conclude that Mr Kelley was clearly suffering from symptoms of a mental illness at the time of these interviews.

It is important to note, however, that these police interviews were not formal psychiatric evaluations. Although in my view it is reasonable to conclude that there was no clear evidence of Mr Kelley experiencing symptoms of a major mental illness during these interviews given his behaviour and responses, that is not to say that he was not experiencing underlying symptoms of mental illness.

As discussed in more detail in the psychiatric report I prepared dated 15 June 2011, it appears to be the case that Mr Kelley was only observed to be suffering with symptoms of psychosis some months into his time in custody. This might go some way to explain his presentation during the earlier police interview. Nevertheless, the same theory would be less applicable to the later police interview, given the regular entries in the Justice Health record referring to ongoing symptoms up until at least June 2015.

I have not re-assessed Mr Kelley in person. Without having the opportunity to do so, I am not able to comment definitively regarding his mental state at the material time of each police interview. It might be the case that he would add valuable information regarding his underlying mental state.

I have discussed the reliability of Mr Kelley's account below.

2. To the extent to which the material permits you to express an opinion, did Mr Kelley's behaviour during his time in custody disclose the existence of a mental illness? If so, what is your diagnosis of the mental illness disclosed? How would that mental illness have affected Mr Kelley's cognition, or his ability to answer questions responsively, truthfully, or reliably?

Based upon my review of the Justice Health medical record, it is evident that Mr Kelley has been assessed by several different mental health clinicians since his arrest in 2010, and he has regularly been observed to be experiencing symptoms consistent with a psychotic illness, such as schizophrenia. It was my opinion based upon my assessment of Mr Kelley on 30 April 2011 that he was suffering with symptoms of a psychotic disorder at this time. At this stage I have no reason to alter this diagnosis.

Notwithstanding the above discussion, it is important to consider the concerns raised regarding the reliability of Mr Kelley's account, particularly the concerns raised by his sister, and the concerns raised by the police in terms of Mr Kelley's version of events. These are important considerations from a psychiatric perspective as they draw into question the reliability and consistency of Mr Kelley's account. However, without evaluating Mr Kelley again in person and exploring these issues in detail, I am unable to comment conclusively as to the reliability of Mr Kelley's account, and hence how this might impact upon both diagnostic issues and his responses during the two police interviews.

I would be willing to evaluate Mr Kelley again in person if instructed, and explore any specific psychiatric areas of interest to the Coroner.

Should you have any additional questions or require any further clarification please do not hesitate to contact me.

Yours Sincerely

A handwritten signature in black ink, appearing to read "J Adams", is written over a horizontal line. The signature is cursive and somewhat stylized.

Dr Jonathon Adams

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