



## Special Commission of Inquiry into LGBTIQ hate crimes

21 December 2022

Dr Kerri Eagle  
Consultant Forensic Psychiatrist

By email: [REDACTED]

Dear Dr Eagle,

### Special Commission of Inquiry into LGBTIQ hate crimes: expert report

I assist the Honourable Justice John Sackar in the Special Commission of Inquiry into LGBTIQ hate crimes (“the Inquiry”). Kathleen Heath, of counsel, and Claudia Hill, solicitor, are assisting his Honour in his consideration of the death of Anthony Cawsey (“Mr Cawsey”).

Thank you for your willingness to provide an expert report to the Inquiry from the perspective of a forensic psychiatrist.

### The Inquiry

By way of background, on 13 April 2022 the Governor of NSW, by Letters Patent, issued a commission to his Honour to inquire into and report on historical LGBTIQ hate crimes. Specifically, the Letters Patent require his Honour to inquire into and report to the Governor and Premier on the following matters by 30 June 2023:

- A. The manner and cause of death in all cases that remain unsolved from the 88 deaths or suspected deaths of men potentially motivated by gay hate bias that were considered by Strike Force Parrabell; and
- B. The manner and cause of death in all unsolved suspected hate crime deaths in New South Wales that occurred between 1970 and 2010 where:
  - i. The victim was a member of the lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) community; and
  - ii. The death was the subject of a previous investigation by the NSW Police Force.

I enclose a full copy of the Letters Patent for your reference.

### Request for expert opinion

I confirm that by this letter, you are briefed to prepare an expert report for the Inquiry in relation to death of Mr Cawsey from the perspective of a forensic psychiatrist addressing certain matters identified below.

## Special Commission of Inquiry into LGBTIQ hate crimes

---

I would be grateful if you could provide your report by **13 February 2023**. If you anticipate any difficulties with this timeframe, please let me know as soon as possible.

In addition to providing your report, you may be required to give oral evidence at any hearing in relation to Mr Cawsey's death. If you are required to give oral evidence, I will notify you as soon as practicable to discuss suitable arrangements.

### Assumptions

In preparing your report, you are requested to assume the facts set out in the below summary, put on two alternate bases. Additionally, please have regard to any other relevant information contained in the briefing materials provided to you.

1. Mr Cawsey (born 26 January 1972) died on 26 September 2009 between 5:34am and 5:56am, at Centennial Park, Sydney NSW. He was 37 years old at the time of his death.
2. At 4:24am on the morning of 26 September 2009, Mr Cawsey left his apartment in Redfern and walked to Centennial Park.
3. At 4:44am, while walking to Centennial Park, Mr Cawsey connected to a gay chat line, Mediatel Services. He was connected to the chat line until 5:01am, during which time he recorded a message, to the effect that he was sexually aroused and wandering through a park on the edge of the city wearing "girlies panties." Mr Cawsey left details about the size of his penis and stated that he wanted to engage in a sexual act with another male. Mr Cawsey did not reveal his specific location in the message.
4. Police estimated that Mr Cawsey arrived at the Snake Bank path, where his body would eventually be found, at 4:54am.
5. Between 5:12am and 5:24am, Mr Cawsey connected and spoke with a man by the name of [1354]. [1354] According to [1354], they spoke to each other about sex while [1354] masturbated. It is likely that Mr Cawsey also masturbated. [1354] was later investigated by police but was excluded as a suspect given that he resided in Westmead and a CCTV review confirmed he did not leave his house.
6. At 5:56am, the body of Mr Cawsey was discovered by several park users who separately notified police. His body was found on a Snake Bank path on the southern side of Busby's Pond, Centennial Park.
7. Mr Cawsey's body was prone and outstretched, and partially positioned on the track. He was dressed in a blue short sleeved shirt with a cut-off black top underneath, which was blood soaked. The waistband of Mr Cawsey's pants was pulled down to his mid-thigh, with a pair of pink female underpants also pulled down and just visible below them. He was wearing a black g-string exposing his buttocks and covering his genitals.
8. Mr Cawsey's wallet, keys and mobile phone were all left on his person. Several other items were found near his body, including a "rollie" cigarette butt, a tailor-made cigarette and a red plastic disposable cigarette lighter.
9. On 29 September 2009, Dr Rebecca Irvine conducted a post-mortem investigation of Mr Cawsey. She determined that Mr Cawsey died of haemopericardium due to a single stab wound to the left chest. The knife punctured the right ventricle of the heart and the injury would have been quickly disabling.
10. A coronial inquest into Mr Cawsey's death was suspended on 13 December 2017, with the finding that the cause of death was haemopericardium as a result of a stab wound to his left chest.

## Special Commission of Inquiry into LGBTIQ hate crimes

---

### Sexuality and personal life of Mr Cawsey

11. At the time of his death, Mr Cawsey had been in a relationship with [1362] a transgender woman. The majority of Mr Cawsey's friends and family considered him to be heterosexual, albeit very private about his love and sex life. A review of his phone use, SMS history and photographs revealed that Mr Cawsey also engaged in sexual activities with men.
12. Mr Cawsey was a long-term user of prohibited drugs, including amphetamines, LSD, cocaine and cannabis. His drug use did not prevent him from maintaining regular employment and functional relationships.

### Mr Moses Kellie

13. The primary suspect in the murder of Mr Cawsey was Moses Kellie, a Sierra Leone national who immigrated to Australia in 2006.
14. Between April 2009 and November 2009, Mr Kellie was homeless and living in Centennial Park at three or four different campsites.
15. There was no forensic evidence linking Mr Kellie to the scene of the crime or to the victim. Mr Kellie was not a match to any of the unknown DNA profiles recovered from the crime scene. No murder weapon was ever found.
16. Mr Kellie suffered from schizophrenia, and a report in 2011 described Mr Kellie as paranoid and experiencing hallucinatory voices with intimidating sexual content.
17. Mr Kellie died in Villawood Detention Centre on 25 January 2019. His death is the subject of an inquest.
18. Between 2009 and 2015, police interviewed Mr Kellie on five occasions, about this and other offences.
19. On 17 January 2010, Mr Kellie was interviewed in relation to a robbery with wounding against one [1359]. [1359] He described having two meetings with the victim and said that the victim approached him on two occasions that morning and wanted gay sex.
20. Mr Kellie made the following comments in relation to the circumstances of his interaction with the victim:

“Q162 Do you want to say anything about the wound there?  
A Well, well when I, when I actually, actually say I'm not interested, like when he was talking then, he start to pretend he was talking on the phone.

Q 163 Uh huh.  
A Yeah, so he start to walk, he start, no make like, he's still forcing, still forcing himself like, I said, I'm not interested like in gay sex, because that's where they thought anybody they see around that area...”

“Q183 And did he ask you for some sort of sexual favour?  
A Yeah, it's, it's like a popular place, it's like a popular spot.

...  
Q185 Can you remember what he specifically said to you, what did he ask for? Oral sex? Some other form of sex?  
A Yeah... they approaching me, and they don't, they don't, they don't hide any stuff around that area.

Q186 All right.  
A Yeah, just like ... a lady on the street, you know.

## Special Commission of Inquiry into LGBTIQ hate crimes

---

- Q187 All right, yeah. Did he offer you some money to do anything?  
 A Yeah. I said, I'm not interested, he forced, he forced attempt."
- "Q199 ...  
 A Yeah, when we start to argue I said, If you don't, I said, If you don't, I said the F word. I said I, I will, I will, you know I will, I will stab you..."
- "Q288 What, what did he confront you with that made you end up in a struggle with him?  
 A It was, it was the gay sex.  
 Q 289 Gay sex - - -  
 A Yeah, yeah."
- "Q357 All right, and you say you seen this bloke three or four times before, this same person, this fella?  
 A Mmm.  
 Q358 Three or four times before, you've seen him before?  
 A Yes, yes.  
 Q359 Had he approached you for sex on those occasions as well?  
 A Yeah, yeah.  
 Q360 And what was your reaction to that?  
 Q361 I'm still not interested I didn't like force, I didn't, it did not anger me, because like people do it you know, but when he start, keep coming, that's when I get angry over this..."

21. Police charged Mr Kellie with the murder of Mr Cawsey in on 6 October 2015. The police alleged that Mr Kellie was that Mr Kellie had confused the robbery of [ 1359 ] with the murder of Mr Cawsey, and that the 17 January 2010 interview was an admission by Mr Kellie to becoming angry about being propositioned for gay sex on a second occasion: see Facts Sheet [REDACTED].
22. On 7 September 2016, the Office of the Director of Public Prosecutions (ODPP) withdrew the charge against Mr Kellie on the basis that there was no reasonable prospect of conviction.
23. An inquest was conducted into the death of Mr Cawsey on 11 to 13 December 2017. Deputy State Coroner Russell suspended the inquest and referred the matter to the ODPP. The ODPP considered the referral but declined to prosecute Mr Kellie.
24. Police sought the opinion of a forensic psychologist, Kimberley Ora, as to whether the circumstances of Mr Cawsey's murder fit with specific victim targeting. In an email dated 17 February 2015, Ms Ora opined that *"I think primarily the absence of excessive violence against the victim in this case would be the main factor that does not support this as being a hate crime..."*. No formal expert report was received from Ms Ora, but the email was tendered during the coronial hearing.

You are requested to assume the facts set out above. In addition, please assume the following facts in answering question 2 below:

## Special Commission of Inquiry into LGBTIQ hate crimes

---

25. Mr Kellie's interview on 17 January 2010 related to interactions between Mr Kellie and Mr Cawsey, rather than [1359]
26. Mr Kellie stabbed Mr Cawsey.

### Material with which you are briefed

For the purpose of preparing your report, you are briefed with the materials in the **enclosed** index. The material contained in the index has been extracted from the NSWPF investigation file and the court file from the Coroners Court of NSW.

If there is any additional material that you consider would be of use to you in forming your opinion, please contact Claudia Hill and this material will be provided to you (if available).

### Matters to be addressed in your report

I would be grateful if you could address the following matters in your report, having regard to the material with which you are briefed and to the extent that they are matters which fall within your expertise:

1. Whether there are any aspects of the manner of Mr Cawsey's death (including the nature and extent of the injuries inflicted) and/or the crime scene which may indicate that a homicide has occurred in the context of LGBTIQ hate/prejudice/bias (hereafter collectively referred to as "hate").
2. Whether, accepting assumptions 25 and 26 above, there is evidence of Mr Kellie being motivated by LGBTIQ hate or bias.

Please consider any relevant concepts including (but not limited to) notions of masculinity, male honour, internalised homophobia, medicalised stigma, conflating homophobia with paedophilia, perceptions of the characteristics of LGBTIQ persons, and particular psychopathologies.

3. The conclusions reached in the email provided to NSWPF by psychologist Kimberley Ora.
4. Any recommendations for further investigations with respect to determining the manner and cause of the person's death.
5. Any other matters you wish to raise within your expertise that may be of assistance to the Inquiry.

In the event that you are called to give evidence before the Inquiry, either as to general matters in connection with LGBTIQ hate crimes or particular cases, it may be necessary for the Inquiry to disclose to interested parties any correspondence or conference notes with you.

### Expert Witness Code of Conduct

I **enclose** a copy of the Expert Code of Conduct with which expert witnesses in Supreme Court proceedings in NSW are typically required to comply. While the present inquiry is not a Court proceeding, I would be grateful if you would read the Code of Conduct and agree to be bound by it. I suggest the following form of words be included in the body of your report in due course:

"I, Dr Kerri Eagle, acknowledge that I have read the Expert Witness Code of Conduct in Schedule 7 to the Uniform Civil Procedure Rules 2005 (NSW) and agree to be bound by it."

### Terms of engagement

I confirm an agreed rate of [REDACTED] for your review of materials, consultation with the Commissioner and members of the assisting team, and the preparation of any written material.

## Special Commission of Inquiry into LGBTIQ hate crimes

---

Prior to commencing your review of materials, I would be grateful if you could advise me if you anticipate that the cost of preparing your report (including review of material, consultation with the Commissioner and members of the assisting team, and the preparation of any written material) will exceed **\$5,000**.

### *Invoicing requirements*

It is essential to comply with the Australian Taxation Office requirements that any invoice issued be addressed to the business name: Department of Premier and Cabinet.

Prior to paying any invoice, the Department must register you as a consulting expert. In order to do, the Department will require the following documents:

- A completed confidentiality deed;
- A signed letter on company letterhead containing supplier name, address, ABN and bank details; and
- A bank statement or letter, no more than 6 months old, confirming your bank details (per the abovementioned letter).

A draft confidentiality deed is **enclosed**. I would be grateful if you could complete and return that document to me by email prior to commencing your review of the material in relation to this matter.

If an amount for GST is to be included in your fee, you will need to cite your ABN and either:

- Indicate that the fee is inclusive of GST; or
- Separately indicate the amount of GST charged.

Thank you for your consideration and assistance.

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

Yours faithfully,



Claudia Hill  
Solicitor

**Solicitor Assisting the Inquiry**

Encl. 2

## Special Commission of Inquiry into LGBTIQ hate crimes

### Death of Anthony Cawsey

#### Index to Brief to Dr Eagle

Tab	Document	Date	Relativity reference
<b>Forensic material</b>			
1.	Autopsy report prepared by Dr Rebecca Irvine	14 December 2009	SCOI.10464.00008
2.	Certificate of Analysis prepared by Mark David	21 October 2009	SCOI.10465.00024
3.	Certificate of Analysis prepared by Lisa-Ann Wedervang	18 April 2016	SCOI.10465.00005
<b>Information regarding deceased and police investigation</b>			
4.	Facts Sheet [REDACTED]	24 February 2017	SCOI.10472.00006
5.	Statement of Detective Senior Constable Melanie Staples	24 February 2017	SCOI.10464.00009
6.	Statement of Detective Sergeant Peter Bishop	7 December 2009	SCOI.10468.00003
7.	Statement of Detective Senior Constable Scott Johnson	11 February 2010	SCOI.10471.00103
8.	'Overview of versions offered by Moses Kellie'	Undated	SCOI.10468.00061
9.	Statement of Moses Kellie	3 October 2019	SCOI.10468.00063
10.	Interview with Moses Kellie, Waverley Police Station	16 October 2009	SCOI.10468.00067-8
11.	Interview with Moses Kellie, Centennial Park	17 October 2009	SCOI.10468.00071-2
12.	Interview with Moses Kellie, Maroubra Police Station	17 October 2009	SCOI.10468.00075-6
13.	Interview with Moses Kellie, Eden Police Station	17 January 2010	SCOI.10469.00003-4
14.	Interview with Moses Kellie, Wagga Wagga Police Station	6 October 2015	SCOI.10469.00007-8.
15.	Email from Kimberley Ora to Melanie Staples	17 February 2015	SCOI.10472.00151

## Special Commission of Inquiry into LGBTIQ hate crimes

---

Psychiatric and psychological reports and information regarding Mr Kellie			
16.	Psychological Report of Dr John Jacmon	8 November 2010	SCOI.10488.00008
17.	Psychiatric Report of Dr Thomas Clark	12 April 2011	SCOI.10488.00009
18.	Psychiatric Report of Dr Thomas Clark	9 June 2011	SCOI.10488.00010
19.	Psychiatric Report of Dr Jonathan Adams	15 June 2011	SCOI.10486.00231
20.	Psychiatric Report of Dr Danny Sullivan	17 September 2017	SCOI.10482.00011
21.	Psychiatric Report of Dr Jonathan Adams	4 December 2017	SCOI.10482.00009
22.	Supplementary Psychiatric Report of Dr Jonathan Adams	8 December 2017	SCOI.10482.00008
23.	Supplementary Psychiatric Report of Dr Danny Sullivan	8 December 2017	SCOI.10482.00010