DR KERRI EAGLE

FORENSIC PSYCHIATRIST

BA LLB (HONS) LLM MBBS MPSYCH FRANZCP CERT. FORENSIC PSYCH

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17 February 2023

Justice John Sacker

Ms Claudia Hill
Solicitor Assisting the Inquiry
GPO Box 5341
SYDNEY NSW 2001

SPECIAL COMMISSION OF INQUIRY INTO LGBTIQ HATE CRIMES (INQUIRY)

Instructions

1. I refer to your letter of instructions dated 21 December 2022. I have been asked to prepare an expert report for the Inquiry in relation to the death of Mr Cawsey from the perspective of a forensic psychiatrist. Mr Cawsey died on 26 September 2009 between 5.34am and 5.56am. The cause of death was found to have been a haemopericardium from a stab wound to his left chest. The primary suspect was Mr Moses Kellie. Mr Kellie was charged with the murder of Mr Cawsey on 6 October 2015. The charge was withdrawn on 7 September 2016 by the Office of the Director of Public Prosecutions (ODPP). Mr Moses Kellie died on 25 January 2019.

2. I note that in the letter of instructions a number of assumed facts have been provided that I am to rely upon in forming my opinions. I have been asked to address the following specific questions in this report:

   2.1. 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*").

   2.2. 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 mas culinity, male honour, internalised homophobia, medicalised stigma, conflating ho mophobia (sic) with paedophilia, perceptions of the characteristics of LGBTIQ per sons, and particular psychopathologies.

   2.3. The conclusions reached in the email provided to NSWPF by psychologist Kimberley Ora.

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2.4. Any recommendations for further investigations with respect to determining the manner and cause of the person's death.
2.5. Any other matters I wish to raise within my expertise that may be of assistance to the Inquiry.

Code of Conduct

3. I, Dr Kerri Eagle, acknowledge for the purpose of Rule 31.23 of the Uniform Civil Procedure Rules 2005 that I have read the expert witness code of conduct in Schedule 7 of the said rules and agree to be bound by it.

4. A detailed curriculum vitae is annexed to this report and marked A.

Sources of Information

5. The following sources of information were relied upon in the preparation of this report:

5.1. Letter of instruction dated 21 December 2022;
5.2. Brief of documents, itemised in Index to Brief contained in the letter of instructions. The letter of instructions and Index to Brief are annexed to this report and marked B.

Limitations of Assessment

6. There are inherent limitations in any retrospective psychiatric assessment of a person's presentation, mental state and the presence or absence of mental illness. The opinions in this report are based on various sources of information. The sources of information relied upon are referred to in the body of this report and reasons provided for the opinions offered.

Circumstances of Mr Anthony Cawsey's Death on 26 September 2009

7. Mr Cawsey was 37 years old at the time of his death. On 26 September 2009 at 4.24 he left his apartment in Redfern and walked to Centennial Park. During the walk he connected to a "*gay chat line*." He was connected to the chat line from 4.44am to 5.01am. He recorded a message to the effect that he was sexually aroused and wanted to engage in a sexual act with another male. He arrived at Snake Bank path at 4.54am.

8. Mr Cawsey connected and spoke with a man between 5.12am and 5.24am. It is likely that Mr Cawsey masturbated in the presence of the man whilst they spoke to each other about sex. The man resided in Westmead and had not left his house.

9. Mr Cawsey's body was discovered at 5.56am. The body was prone and outstretched. Mr Cawsey's pants were pulled down to his mid-thigh and he had a pair of pink female underpants also pulled down. He was wearing a black g-string exposing his buttocks and covering his genitals. His wallet, keys and mobile phone were all left on his person.

Post mortem report of Mr Anthony Cawsey by Dr Irvine dated 29 September 2009

10. The autopsy revealed an "*otherwise healthy appearing young adult man with a single stab wound of the left chest. The single edged blade was inserted upward and backward into the body, perforating the pericardium and the anterior wall of the right ventricle*."

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11. Toxicological examination revealed a modest concentration of alcohol and cannabinoids and methamphetamine.

NSW Police Facts Sheet [redacted]

12. It was alleged that Mr Moses Kellie stabbed and killed Mr Cawsey during an interaction in which Mr Cawsey propositioned Mr Kellie for gay sex. Mr Kellie was said to have been homeless and residing in Centennial park. Mr Kellie provided inconsistent accounts of his movements on 25 and 26 September 2009. He was alleged to have made false statements to distance himself from the area where the victim's body was located. It was alleged that Mr Kellie deliberated lied about matters relevant to the murder because he knew that the truth would implicate him in the murder.

13. Mr Kellie had been charged and convicted of other offences that had occurred in similar circumstances, including the robbery and wounding of [I359] on 11 October 2009 and the assault of [I360] on 16 October 2009. Features that were felt to be in common with Mr Cawsey's death included "*unprovoked violent attacks; no personal history with the victims; involving the use of knives or bladed weapons; inside or in the immediate vicinity of Centennial Park; during the evening or early morning; and all within a one month period between September and October 2009*."

14. During an interview on 17 January 2010 with police, Mr Kellie was felt to have confused the robbery of [I359] with the murder of Mr Cawsey.

15. It was alleged that Mr Cawsey arrived a Centennial Park on 26 September 2009. He located and approached other males in the park wanting to engage in sexual activities. Mr Cawsey came into contact with Mr Kellie on two separate occasions. The first on arrival near the main entrance during which Mr Cawsey expressed an interest in having gay sex with Mr Kellie. Mr Kellie moved away from Mr Cawsey. Mr Cawsey made contact with a male on the chat line and had a "*sexually explicit phone conversation*" during which he was "*more than likely masturbating*."

16. It was alleged that Mr Kellie came into contact again with Mr Cawsey between 5.24am and 5.56am. Mr Cawsey expressed an interest in having gay sex with Mr Kellie and Mr Kellie, during an altercation, stabbed Mr Cawsey to the left side of the chest with a knife.

17. On 11 October 2009, Mr Kellie was on Lang Road opposite Centennial Park when he faced [I359] and began to yell at him. [I359] was "*unable to understand what was being said*." Mr Kellie produced a knife and waved it "*aggressively in front of Mr* [I359] *face and chest*." [I359] suffered a wound to his left upper arm.

18. On 16 October 2009, Mr Kellie was sitting on a small brick wall near the entrance to Fox Studio Complex when [I359] exited the complex after seeing movie. Mr Kellie allegedly followed [I359] Mr Kellied grabbed hold of [I360] and began "*pulling her out of the street light away from the road and towards the bushes in front of a house*."

19. It was noted that Mr Kellie stated, during an interview with police regarding [I359] that after the "*man approached him for gay sex and Mr Kellie told him that he wasn't interested, the man started to pretend he was talking on the phone*." It was quoted

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"*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…*" It was alleged that during the interview, Mr Kellie described "*having direct verbal and physical interactions with the victim that occurred because the victim approached him for gay sex*." It was quoted "*I said, I'm not interested, he forced, he forced attempt*." It was further quoted "*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 … I was not carrying a knife …*" Mr Kellie is also quoted "*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*."

Statement of Detective Senior Constable Melanie Staples

20. DSC Staples described the investigation (Stroke Force Annand) into the death of Mr Cawsey. Details of Mr Cawsey's personal history and background are described in the statement.

21. DSC Staples noted at paragraph 195 that there were no known records of any mental health diagnoses regarding Mr Kellie around the time of the offences or indeed prior to 2010. However, it was observed that Mr Kellie had some "*indicators*" of mental health issues including "*not dressing according to the weather, … shouting at people for no apparent reason, and muttering to himself*." It was noted that his sister, I357 felt there must be "*something wrong with Moses for him to lie and behave in a bad way*" but she was not aware of any diagnosis and denied his father had schizophrenia. It was noted that he was diagnosed with schizophrenia in custody, but that he may have "*created or exaggerated a mental health situation because he saw that as being advantageous to his court proceedings*."

22. DSC Staples referred to psychological case notes dated 22 June 2010 which described Mr Kellie as having "*high internal anger and poor levels of anger control. He was able to formulate that his anger patterns arise from external sources as he has difficulty coping when others provoke him or show to have control of him, or others taking things from him without permission, being negatively labelled by others or others condemning him*." He was also quoted from a progress note dated 9 August 2010 as stating "*I think so in some ways I have a mental problem. I believe I've got a temper problem - easily lose my temper in twinkle of an eye*."

Statement of Sergeant Peter Bishop dated 7 December 2009

23. Sergeant Bishop observed Mr Kellie on 29 September 2009 at Centennial Park. Mr Kellie showed Sergeant Bishop where he was living in the park.

24. On 17 October 2009, Sergeant Bishop and Detective Johnson located Mr Kellie at Centennial Park. He would found near a drain pipe containing three knives. Various other items were located and taken by police.

Overview of Versions offered by Moses Kellie

25. Mr Kellie was reported to have provided a number of versions to police regarding the investigation into the death of Mr Cawsey. The versions are noted.

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Statement of Moses Kellie dated 3 October 2009

26. Mr Kellie provided a statement that gave information regarding his background. The statement was logical and coherent.

27. Mr Kellie said he left Sierra Leone with his two sisters, [redacted] and [redacted] He said he resided at Blacktown with his sisters, then Marrickville. He said he worked at TNT Padstow but was unemployed from 2008.

28. Mr Kellie said, "*whilst I have been living in the park, I have seen males in there who appear to be there to indulge in homosexual activities. The homosexuals make a sign at me and if you acknowledge that sign it means you are interested in homosexuals and if you ignore it, it means you are straight. I am not a homosexual, so I ignore the homosexuals in Centennial Park*."

ERISP transcript of Mr Kellie on 16 October 2009

29. The transcript has been reviewed.

30. Mr Kellie said he carried a knife for bread that he obtained from a bakery. He appeared to deny knowledge it was an offence to carry a knife, but then at Q144 indicated he was aware from 2GB that "*if catch you with a knife it's going to be 10 year…*" He was asked to "*slow you speech down a bit…*"

31. Mr Kellie was found to have cash and coins amounting to $2,471.25 in his possession. He said he got the money from working.

ERISP transcript of Mr Kellie on 17 October 2009

32. The transcript has been reviewed.

ERISP transcript of Mr Kellie on 17 October 2009

33. The transcript has been reviewed.

34. Mr Kellie described aspects of his life in Sierra Leone. He said he was raised by his mother after his father left. He said he came to Australia with his two sisters, [redacted] and [redacted]

35. Mr Kellie said he smoked cigarettes and consumed alcohol occasionally. Mr Kellie said he had knives to help him cut bread.

36. Mr Kellie denied being approached for sex by men in the park (Q1079- Q1085). He said he had been approached elsewhere (Woolloomooloo).

ERISP transcript of Mr Kellie dated 17 January 2010

37. The transcript has been reviewed.

38. Mr Kellie described being in Centennial Park and being approached by men Q132-137. He referred to a man "*forcing, still forcing himself like, I said, I'm not interested like in*

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gay sex, because …" Q163. He said he was entering the park and "*he was still like behind me …*" Mr Kellie was read a description of something that happened at Centennial Park (I359). He said "*I don't know anything about that*" Q174.

39. Mr Kellie maintained a man propositioned him for sex. He said "*I said, I'm not interested, he forced, he forced attempt*." He made reference to the man talking to somebody on the phone Q208.

40. Mr Kellie denied stabbing the person Q306.

41. Mr Kellie described being approached for sex again at Q360 and said "*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.*."

ERISP transcript of Mr Kellie dated 6 October 2015

42. The transcript has been reviewed.

43. Mr Kellie was asked some questions about an incident resulting in a charge of armed robbery. He said he was approached for sex, but could not remember what he said. He said he was talking on his phone. He went a robbed him of his mobile phone. He denied previously stating the man had "*forced attempt*" on him Q65-Q97.

44. Mr Kellie said at Q133 that he had he had previously said he carried a knife for protection after police found it in his backpack. He said it was protection from "*people attack other people in the street*."

45. At Q333 it was put to Mr Kellie that during a previous interview, he described an incident that happened during the robbery, but it was actually what happened in the murder. He denied the allegation. He said he did not get them confused Q341. Mr Kellie denied stabbing anyone or having a physical altercation with Mr Cawsey Q376-377.

Email from Ms Kimberley Ora dated 17 February 2015

46. Ms Ora commented that "*bias or hate crimes are generally characterised by excessive and brutal violence where patterns of harm such as overkill and mutilation can exist. With gay hate crimes the intent … is to 'send a message of fear and terror based in bigotry*.'" Indicators include multiple offenders, victim killed in their own home, victim likely to be older than the offender, victim is likely to be brutally beaten to death or repeatedly stabbed, victim is more likely to be killed by a stranger and the location of the offence such as proximity to a known gay venue or meeting place.

47. Ms Ora opined that the absence of excessive violence against the victim was the main factor not supporting this as a hate crime. She observed that Mr Kellie's diagnosis of schizophrenia may have caused him to feel threatened by the victim or because he believed that people talking on their phones are "*talking about him and 'that people make assumptions about him*.'"

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Background and Psychiatric History of Mr Moses Kellie

Demographic Information

48. Mr Kellie was 24 years old at the time of Mr Cawsey's death. He was homeless and sleeping in Centennial Park between April 2009 and November 2009. He had been unemployed since 2008. He said he had no income at the relevant time.

Past Psychiatric History

49. Mr Kellie was diagnosed with schizophrenia in custody. He was prescribed olanzapine (antipsychotic medication), quetiapine (antipsychotic and mood stabiliser), and risperidone (antipsychotic medication).

Family History

50. Mr Kellie's father has been reported to have schizophrenia, although Mr Kellie's sister has denied this.

Substance Use History

51. Mr Kellie has reported smoking cannabis from 11 years old up to 10 joints per day. He started consuming alcohol from 12 years old, usually on a daily basis until intoxicated. He ceased cannabis use after relocating to Australia and used amphetamines and methamphetamines about once a week. He used amphetamines intravenously for about six months until he returned to cannabis use. He smoked cannabis about three times per week. He had not done any drug or alcohol rehabilitation programs. He denied using cannabis or consuming alcohol within the three months prior to the offence of robbery armed with offensive weapon cause wounding/GBH. (Adams report).

Medical History

52. Mr Kellie has reported having a head injury resulting in loss of consciousness due to assaults. He denied any other significant medical conditions (Adams report).

Forensic History

53. Mr Kelly's criminal history is unknown, but he has had previous convictions for violence involving a knife including robbery and wounding of I359, and assault of I359

Personal History

Childhood Development and Experience

54. Mr Kellie was born in Sierra Leone and immigrated to Australia in 2006. His mother was murdered by Rebels in about 1993. His father died in about 2006 (Staples statement).

55. Mr Kellie was reported to have had three older sisters. He has also reported being one of 15 children to his father who was a diamond miner and had three wives (Clark report). He grew up during the civil war in Sierra Leone that began in 1991 and ended in 2002. He has reported observing people being killed and maimed by rebels. He said his father went away to fight in the war and learnt his father was killed in 1999 (Jacmon report). Aspects of Mr Kellie's account have been disputed by his sister (Staples statement).

56. Mr. Kellie said his mother was killed by rebels when they travelled to a refugee camp in Guinea in 1995. He resided in the camp with his younger sisters for about 11 years. Conditions in the camp were described as primitive. They were granted refugee status and permitted to travel to Australia in 2006. He initially resided in Australia with his sisters, but moved out in about 2007 (Jacmon report).

Education and Employment

57. Mr Kellie was reported to have had limited education given his upbringing in Sierra Leone. He completed the equivalent of year 5 when in a refugee camp. When he arrived in Australia in 2006, he completed an English language course and a certificate II course at Wesley Mission in aged care. He obtained part-time work at Padstow in a warehouse but was dismissed after two months. He applied for other positions but his English was not adequate (Jacmon report).

58. Mr Kellie became homeless after being unable to secure employment or Centrelink benefits. He reported he resorted to petty crime such as stealing. (Jacmon report).

Relationships

59. Mr Kellie had reported having a South Korean girlfriend but she returned to Korea, and he had been living with her for "*some time*." He was otherwise described as socially isolated, losing contact with his sisters (Clark report).

Childhood Trauma

60. Mr Kellie grey up in Sierra Leone during a time when the country was going through a civil war (1991 to 2002). He was likely exposed to violence associated with the war during childhood, as he reported.

Additional Documentation Review

Psychological and Psychiatric Reports

Psychological Assessment Report of Dr Jacmon, psychologist, dated 8 November 2010

61. Dr Jacmon assessed Mr Kellie on 7 November 2010 at Silverwater Correctional Centre (MRRC). He took a history from Mr Kellie. He diagnosed Mr Kellie with PTSD, depression and anxiety. He conducted a cognitive assessment indicating a borderline level of intelligence.

Psychiatric report of Dr Clark, forensic psychiatrist, dated 12 April 2011

62. Dr Clark conducted an assessment of Mr Kellie on 11 April 2011. He took an account of the offence of Robbery Armed with an Offensive Weapon from Mr Kellie. Mr Kellie said "*he was alone, when approached by the victim, who made sexual advances to him. Moses had a silver object and resisted the sexual advances. Moses took a mobile phone but did not take any money from his victim.*"

63. Dr Clark noted Mr Kellie had been diagnosed with schizophrenia following admission to custody. He was not observed to have signs of psychosis on assessment by Dr Clark, felt to be due to effective treatment.

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64. Dr Clark opined that Mr Kellie, as a result of his illness, was paranoid at the time of the offending, and "*convinced that the victim was a sexual predator.*"

Justice Health Psychiatric Report of Dr Jonathon Adams dated 15 June 2011

65. Dr Adams assessed Mr Kellie on 30 April 2011. He reviewed a letter of request, the indictment and the Justice Health medical file. He took a history from Mr Kellie.

66. Dr Adams noted Mr Kellie reported hearing voices from about 2003. He reported hearing "*strange voices*" that were "*telling me about killing, doing something silly … do revenge*." He also described believing the television was referring to him (gossiping) and "*giving me instructions*." He was said to note "*widespread persecutory ideas and ongoing concerns with regards his safety*." He had never been admitted to a psychiatric facility. Mr Kellie reported a history of using illicit substances from 11 years old (described above).

67. Dr Adams review of the Justice Health file is noted. Mr Kellie was treated for psychotic symptoms during his incarceration in 2010. His account of psychotic phenomena was relatively consistent, albeit on 3 November 2010, he denied hearing auditory hallucinations and indicated he had only said this to convey his distress regarding court.

68. Dr Adams opined that Mr Kellie described "*features consistent with a gradually emerging psychotic symptomatology, in the form of auditory perceptual abnormalities and persecutory and referential thinking*."

Psychiatric report of Dr Danny Sullivan dated 17 September 2017

69. Dr Sullivan prepared a report at the request of the Crown Solicitor's Office that was based on a brief of material. He was asked to consider whether Mr Kellie's presentation was consistent with mental illness and if that "*affected Mr Kellie's cognition or his ability to answer questions responsively, truthfully or reliably*."

70. Dr Sullivan summarised various statements that were available to him including the statements of Mr I361 and Ms I357. He reviewed Justice Health clinical records, noting treatment of psychotic symptoms. It was noted he had denied having a mental illness in December 2011, and lied to Dr Adams that he had injected drugs. He was reported to have stockpiled medication in 2013 including risperidone and quetiapine. He was noted to have reported psychotic phenomena in 2015 and had been alleged to have again diverted his medication.

71. Dr Sullivan described the ERISP interviews. He noted Mr Kellie did not clearly display signs of psychosis or other psychopathology.

72. Dr Sullivan summarised his opinion as to Mr Kellie's mental illness as "*Mr Kellie recurrently described symptoms of psychosis to clinicians including psychologists, psychiatrists and nurses. He was treated with antipsychotic medication and reported attenuation of symptoms. However, apart from self report, there is no clear evidence of mental illness, and the other possibility remains that Mr Kellie feigned or embellished symptoms to obtain medication or for other secondary gain. His assessments were based upon recurrent outpatient-based assessment rather than observation in a hospital or clinical unit setting. On at least two occasions, he acknowledged being untruthful about this history because he considered this would help his court case*."

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73. Dr Sullivan also noted that Mr Kellie had provided an inconsistent history about other aspects of his life.

Psychiatric report of Dr Jonathon Adams dated 4 December 2017

74. Dr Adams prepared a report at the request of the Crown Solicitor's Office to assist in the Inquest into the death of Mr Cawsey.

75. Dr Adams did not identify any psychopathology on his review of the police interviews of Mr Kellie on 17 January 2010 and 6 October 2015.

76. Dr Adams maintained his opinion that Mr Kellie had experienced psychotic symptoms consistent with a psychotic disorder. He noted concerns about the reliability of Mr Kellie's account. He felt he was unable to comment about Mr Kellie's reliability without interviewing him again.

Supplementary report of Dr Adams dated 8 December 2017

77. Dr Adams reviewed Dr Sullivan's report and maintained the views expressed in his previous report.

Supplementary report of Dr Sullivan dated

78. Dr Sullivan reviewed Dr Adams' report and maintained his opinion that the basis for a diagnosis of psychotic illness was not founded on anything more substantive than Mr Kellie's self report.

<u>Diagnostic Formulation</u>[1]

79. Mr Kellie's presentation is complex. He has been diagnosed with schizophrenia during incarceration, but this diagnosis has been questioned due to the lack of objective signs of psychosis, and the predominant reliance on self report that was potentially motivated by external gain. He has reported persecutory ideas, felt to be consistent with delusions, referential ideation (misinterpreting potentially benign experiences as personally significant) and auditory hallucinations. He appears to have experienced a deterioration in function and was itinerant for a period of time, living in Centennial Park. He has been described as showing objective signs of mental illness, including "*not dressing according to the weather, … shouting at people for no apparent reason, and muttering to himself*" (Staples statement). He reported feigning symptoms in custody (such as auditory hallucinations) and may have been exaggerating symptoms for external gain (cell placement and/or favourable Court outcomes). It is not unusual for individuals with mental illness to exaggerate or falsely deny symptoms of mental illness, for a variety of reasons. It may be to achieve certain outcomes, such as cell placement or to avoid treatment (if denying symptoms). I would not be able to exclude a psychotic illness on that basis.

80. Mr Kellie had a <u>substance use disorder</u>, involving the use of cannabis, amphetamines (including methylamphetamines) and alcohol. He had unsuccessfully attempted to control his use. Illicit substances such as cannabis and methylamphetamines, and the ex-

[1] In this report, diagnoses have been made with reference to the criteria in: American Psychiatric Association. (2013). *Diagnostic and statistical manual of mental disorders* (5th ed.). Arlington, VA: American Psychiatric Publishing (DSM 5). It should be noted that the DSM 5 was not developed for the purpose of medico-legal settings and is a classification system developed for the purpose of diagnosis, psychiatric formulation clinical research into mental disorders.

SCOI.83375_0011

cessive consumption of alcohol, would have exacerbated his psychological problems including anger management and potentially contributed to aggressive and offending behaviours.

81. Mr Kellie appeared to have been exposed to trauma during childhood that was associated with the civil war in [redacted]. His account was considered unreliable, and his experience may not have been as described, nonetheless, it is likely he witnessed violence associated with the war. Psychological notes by CSNSW have documented reported problems with "*high internal anger and poor levels of anger control. He was able to formulate that his anger patterns arise from external sources as he has difficulty coping when others provoke him or show to have control of him, or others taking things from him without permission, being negatively labelled by others or others condemning him*." His difficulties with regulation of anger and other emotions would be consistent with the impact of childhood trauma. He did not appear to satisfy criteria for a post traumatic stress disorder (PSTD).

Opinion

82. I have been asked to address the following specific question in this report:

82.1. *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").*

82.1.1. I do not have particular expertise as to whether the manner or circumstances of Mr Cawsey's death, suggest it occurred in the context of LGBTIQ hate, prejudice or bias. A hate crime appears to refer to an act of violence or other crime that has occurred in the context of prejudice towards an individual, or group of individuals. Certain characteristics of a violent crime may raise suspicion of a particular motivation for the violence (due to associations between certain characteristics and types of crime reported in the literature), but I am unable to comment on whether the manner of Mr Cawsey's death or the crime scene would suggest the crime was motivated by hate due to prejudice.

82.2. *Whether, accepting assumptions 25 and 26 above, there is evidence of Mr Kellie being motivated by LGBTIQ hate or bias.*

82.2.1. Mr Kellie may have a psychotic illness, such as schizophrenia. Unfortunately in the absence of a clinical interview, and having regard to the limitations associated with a retrospective assessment, it is difficult to form a reliable opinion on the presence and/or nature of a psychotic illness. The information provided does suggest there is more than just self report to suggest Mr Kellie had a mental health condition (such as his deterioration in function resulting in itineracy and presentation as reported by police around the time of the offending). If he had a chronic psychotic illness, such as schizophrenia, that resulted in symptoms he has described (delusions, referential ideas, auditory hallucinations), such an illness would have impacted on his judgment, perception of events and behaviour. Although it is not apparent he was experiencing symptoms that were directly related to the murder of Mr Cawsey, it is plausible that symptoms of psychosis

SCOI.83375_0012

could have resulted in impairments of judgment and a misinterpretation of Mr Cawsey's behaviour, contributing to the violence.

82.2.2. Mr Kellie may also have psychological impacts from his childhood experience of living in Sierra Leone during the civil war. Traumatic experiences during childhood, including exposure to death and violence, can result in emotional regulation problems (for instance, difficulty regulating anger), hyper-vigilance, and exaggerated responses to minor perceived antagonism or threats. Psychological vulnerabilities related to trauma may also have contributed to Mr Kellie's apparent response to Mr Cawsey's possible or perceived sexual advances.

82.2.3. Mr Kellie also displayed potential signs of prejudice towards "*gay*" men who engaged in sexual behaviours. It is difficult to know his actual attitudes without having conducted a clinical assessment and explored these with him. Considered through the lens of his illness, it is not uncommon for individuals with schizophrenia to have rigid stereotyped or prejudicial views that arise from a distorted perspective, poor judgment, vulnerability to adverse influence and impaired capacity for reason. If Mr Kellie was felt to be exaggerating or feigning illness, then derogatory comments regarding "*gay*" men may be construed as reflecting prejudice. The existence of prejudice does not, in my view, necessarily reflect hate or a motivation for violence. Social, cultural and religious factors may also influence an individual's attitudes and prejudices, but there is insufficient information to draw any conclusion regarding those factors in relation to Mr Kellie.

82.2.4. Mr Kellie's response to Mr Cawsey's alleged advances may have been due to a number of possible motivations, including a reactive albeit excessive response to a persecutory misinterpretation of Mr Cawsey's intentions, poorly controlled anger at Mr Cawsey for propositioning him sexually but not necessarily motivated by hate (arising from problems with anger management rather than hatred towards a specific group due to prejudice), or anger motivated by hatred due to prejudice towards a specific group. There is insufficient information, in my view, to be able to reliably determine the motivation for Mr Cawsey's behaviour.

Please consider any relevant concepts including (but not limited to) notions of mas culinity, male honour, internalised homophobia, medicalised stigma, conflating ho mophobia (sic) with paedophilia, perceptions of the characteristics of LGBTIQ per sons, and particular psychopathologies.

82.3. *The conclusions reached in the email provided to NSWPF by psychologist Kimberley Ora.*

82.3.1. Ms Ora referred to a number of indicators that she had derived from the literature that had been associated with hate crimes including "*multiple offenders, victim killed in their own home, victim likely to be older than the offender, victim is likely to be brutally beaten to death or repeatedly stabbed, victim is more likely to be killed by a stranger and the location of the offence such as proximity to a known gay venue or meeting place*." She concluded that the absence of excessive violence against the victim was the main factor not supporting this as a hate crime. She observed that Mr Kellie's diagnosis of schizophrenia may have caused him to feel threatened by the victim or because he believed that people

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talking on their phones are "*talking about him and 'that people make assumptions about him*.'"

82.3.2. I agree with Ms Ora that Mr Kellie's possible diagnosis of schizophrenia does complicate the interpretation of this offence as a hate crime. Her suggestion that Mr Kellie may have felt threatened by the victim due to persecutory ideas arising from his illness, rather than stemming from prejudice, is reasonable. The absence of excessive violence, does not in my view, contribute to the issue of whether this is or is not a hate crime.

82.3.3. Indicators, much like risk factors, are circumstances that have been associated in the literature with specific types of outcomes (such as offences). It would not be reliable, in my view, to extrapolate from an indicator derived from the literature, a conclusion as to a certain fact such as a motivation.

82.4. *Any recommendations for further investigations with respect to determining the manner and cause of the person's death.*

82.4.1. Limited clinical documentation was available regarding Mr Kellie's illness and mental state around the time of the offending. Further clinical documentation such as Justice Health clinical records, or other clinical/medical records may provide information that could enable a more confident opinion regarding his diagnostic formulation.

82.5. *Any other matters I wish to raise within my expertise that may be of assistance to the Inquiry.*

82.5.1. I have no further recommendations at this stage.

83. I hope that this report has been of some assistance to you. Should you require any further clarification or assistance, please do not hesitate to contact me,

Yours sincerely,

DR KERRI EAGLE
Consultant Forensic Psychiatrist

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A
Professional Qualifications and Experience

Medical

Consultant Forensic Psychiatrist

Current Employment

Consultant Forensic Psychiatrist in private practice at Level 7, 183 Macquarie Street, SYDNEY, NSW [2014]

This has involved the preparation of various forensic psychiatric assessments and reports for the NSW Office of the Director of Public Prosecutions, Crown Solicitor (on behalf of the Coroner, Attorney General or Minister for Mental Health), independent parties and Legal Aid including in relation to criminal disposition, fitness for trial, summary disposition, sentencing, capacity (including testamentary capacity) and risk assessment.

Clinical Director, Community Forensic Mental Health Service
Justice Health and Forensic Mental health Service [2022]

Statewide NSW forensic assessment and liaison tertiary referral service with clinical responsibility for risk assessment and management recommendations for forensic patients and high risk mentally ill patients, in addition to the transition of complex mentally ill patients from correctional facilities to the community and the treatment of patients with problem sexual behaviours.

Chair of the Clinical Ethics Review Committee JHFMHN [2023]

Professional Qualifications and Memberships

Fellow of the Royal Australian and New Zealand College of Psychiatrists (RANZCP) February 2014
Certificate of Advanced Training in Forensic Psychiatry from the RANZCP March 2014
Australian Health Practitioners Regulatory Authority (Specialist Registration) Registration Number: MED 0001199385
Member, RANZCP Independent Reconsideration Panel

Former Chair of NSW Forensic Subcommittee for RANZCP
Former Member of Clinical Governance and Risk Committee, RANZCP

Previous Experience

Senior Staff Specialist employed by Sydney Local Health District
[2018-2022]

Located at Camperdown community mental health service, this position has involved working as a consultant psychiatrist with the Mobile Assertive Treatment Team (MATT) and the Acute Care Services (ACS) team, with clinical responsibility for 100 mental health patients with severe mental health problems and complex treatment needs.

Staff Specialist for Justice Health from 2014 to 2018 with clinical responsibility for forensic patients at the high secure Forensic Hospital, Long Bay Correctional Complex, Malabar NSW. This involved the mental health diagnosis, treatment and comprehensive risk assessment of forensic patients. I was required to regularly report to and testify before the Forensic Mental Health Review Tribunal in relation to the treatment, ongoing detention and fitness/capacity of forensic patients. I was an accredited Drug and Alcohol Prescriber for

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the Forensic Hospital. I was the Chair of the Medical Staff Council for Justice Health for three years.

Staff Specialist at Liverpool Hospital from 2014 to 2015 with clinical responsibility for patients in the High Dependency Unit and at Fairfield Community Mental Health Service with a clinic for high risk patients. I have also been employed as a Psychiatry Registrar in numerous clinical roles from 2009 involving the assessment and treatment of mental illness at sites including the Missenden Unit, Royal Prince Alfred Hospital, Redfern Community Mental Health Service, Croydon Community Mental Health Unit, Concord Centre for Mental Health and Concord Repatriation Hospital. I have also worked as an Advanced Trainee in Forensic Psychiatry with the Community Forensic Mental Health Service, Custodial Mental Health Service and Court Liaison Service.

Sub-specialist Training

Clinical Risk Assessment and Management (CRAM) trainer for Justice Health.
Trained in administration of various risk assessment instruments such as the HCR 20 version 3, Static 99R, Stable 2007, SAPROF, TRAP 18, VERA 2R and PCL R.
Trained Smart Recovery Facilitator.
Trained the the evaluation of Permanent Impairment for the purpose of WorkCover claims.

Legal

Previously practising as a solicitor in Brisbane and Perth in civil litigation between 1996 and 2001.
Admitted as a barrister and solicitor of the Federal Court and High Court of Australia, as a solicitor of the Supreme Court of Queensland, as a barrister and solicitor of the Supreme Court of Western Australia.

Academic Qualifications

1992 Bachelor of Arts
1995 Bachelor of Laws with Honours
1999 Master of Laws
2006 Bachelor of Medicine and Bachelor of Surgery
2012 Master of Psychiatry
2015 Graduate Certificate in Forensic Mental Health

Formal Teaching Positions

2012 onwards
UNSW conjoint appointment 2012 to 2018
Course Convenor for the Law and Mental Health Module of the UNSW Masters of Forensic Mental Health Program from 2015
Adjunct Senior Lecturer for the University of New South Wales from 2021

Publications

Author of various publications in national and international peer reviewed journals involving legal capacity and decision making, risk assessment, preventative detention and forensic psychiatry.