



## Special Commission of Inquiry into LGBTIQ hate crimes

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# SUPPLEMENTARY SUBMISSIONS OF COUNSEL ASSISTING

6 October 2023

### IN THE MATTER OF PETER KARL BAUMANN

#### Introduction

1. These submissions are filed on behalf of Counsel Assisting the Special Commission of Inquiry into LGBTIQ hate crimes (**Inquiry**) and supplement the submissions in this matter dated 27 June 2023.

#### Police Investigation

2. As noted in the written submissions of Counsel Assisting, former Senior Constable William John Gribble was involved in the investigation into the disappearance and suspected death of Mr Baumann.
3. On 24 August 2023, the Inquiry wrote to Mr Gribble enclosing a copy of the written submissions filed on behalf of Counsel Assisting and the NSW Police Force (**NSWPF**) in relation to the death of Mr Baumann. By that letter, the Inquiry also invited Mr Gribble to provide written submissions in relation to Mr Baumann's death, should he choose to do so.<sup>1</sup>
4. On 27 September 2023, the Inquiry received written submissions from Mr Gribble in relation to the death of Mr Baumann. In his written submissions, Mr Gribble stated that he was involved in the investigation into Mr Baumann's disappearance for a period of around three months at the end of 1993 and maintained an interest in the case thereafter. Mr Gribble stated his opinion that Mr Baumann's death was unrelated to LGBTIQ bias.<sup>2</sup>
5. Mr Gribble submitted that, in his view, Mr Baumann did not commit suicide or engineer his own disappearance, and the likely explanation for his death was foul play. Mr Gribble provided a number of reasons for this view, including that:<sup>3</sup>

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<sup>1</sup> Letter from Inquiry to William John Gribble, 24 August 2023 (SCOI.85904).

<sup>2</sup> Written Submissions of William John Gribble dated 27 September 2023, 1 (SCOI.85910).

<sup>3</sup> Written Submissions of William John Gribble dated 27 September 2023, 1-2 (SCOI.85910).

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- a. Mr Baumann never showed any signs of instability to his family who offered the view that he was the product of a stable and loving family environment and kept in regular contact with them;
  - b. Mr Baumann was in regular employment;
  - c. Mr Baumann appeared to have adequate accommodation;
  - d. Mr Baumann appeared to have satisfactory relations with Ms Seneviratne and Mr Smyth;
  - e. there was no suicide note;
  - f. there was no evidence that he had sufficient knowledge of the area to carry out his own death in a location that would have enabled the successful concealment of his body for a period of nearly forty years; and
  - g. to engineer his own disappearance, Mr Baumann would need to acquire false identification and there was nothing to show he had contact with the criminal fraternity or the personal knowledge necessary to carry out those actions.
6. In his submissions, Mr Gribble stated that a number of inquiries (which he identified in his submissions) could have been made by the NSWPF that would have served to dispel several alternative hypotheses in relation to Mr Baumann's disappearance and assist any investigation to arrive at a more likely hypothesis.<sup>4</sup>
7. Mr Gribble submitted that the investigation by the NSWPF cannot be described as satisfactory.<sup>5</sup>

### **Other sources of information**

8. On 14 September 2023, the Inquiry received documentation from Mr Baumann's sister, Anna-Christa Baumann-Serr which recorded several inquiries made following Mr Baumann's disappearance. That material indicates that between 1990 and 1994, Mr Baumann's family made extensive efforts from Germany to locate Mr Baumann through inquiries with the following agencies:<sup>6</sup>
- a. The Registry of Births, Deaths and Marriages in South Australia in 1990;
  - b. The Registry of Births, Deaths and Marriages in NSW in 1991;
  - c. The Registry of Births, Deaths and Marriages in Victoria in 1991;

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<sup>4</sup> Written Submissions of William John Gribble dated 27 September 2023, 1-2 (SCOI.85910).

<sup>5</sup> Written Submissions of William John Gribble dated 27 September 2023, 2 (SCOI.85910).

<sup>6</sup> Various enquiries made by Ms Baumann-Serr re Peter Baumann (SCOI.86022).

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- d. The Registry of Births, Deaths and Marriages in the Australian Capital Territory in 1991;
  - e. The Registry of Births, Deaths and Marriages in the Northern Territory in 1991;
  - f. The Australian Red Cross Society in 1992;<sup>7</sup>
  - g. The Australian Performing Right Association Ltd, being an association of composers, authors and publishers of music, in 1992;
  - h. The Department of Foreign Affairs in 1993;
  - i. The Australian Consulate General in Los Angeles in 1993; and
  - j. The Australian Consulate General in Bali in 1994.
9. In her letter to the Department of Foreign Affairs on 25 August 1993, Ms Baumann-Serr said she had been trying to find her brother for 10 years, and that she only learned a week earlier than her letter (i.e., around 18 August 1993) that Mr Baumann had been reported missing to the NSWPF in 1983.<sup>8</sup>
10. This appears consistent with correspondence sent from Ms Baumann-Serr to former Senior Constables Gribble and Emery on 22 August 1993. In that correspondence, Ms Baumann-Serr referred to a telephone call with the officers and indicated she was “surprised to learn that not much has been done to find my brother in all these years he went missing”. Ms Baumann-Serr stated she is “sure something happened to my brother since I otherwise would not have to find him” and sets out a number of queries she has about Mr Baumann’s disappearance.<sup>9</sup>

### Further DNA Testing

11. At [162] of the written submissions of Counsel Assisting, it was proposed that the NSWPF obtain a physical reference sample from Mr Baumann’s relative for the purposes of ensuring that an autosomal DNA profile is available for searching against DNA profiled from unidentified human remains on the National DNA Database.
12. On 1 September 2023, the Inquiry wrote to the NSWPF requesting assistance with obtaining DNA samples from Mr Baumann’s siblings in Germany, and with arranging for autosomal and Y-chromosome testing of those samples to be conducted.<sup>10</sup>

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<sup>7</sup> Letter from the Red Cross Tracing Agency to Mr Peter Baumann, 18 March 1992 (SCOI.34241).

<sup>8</sup> Various enquiries made by Ms Baumann-Serr re Peter Baumann, 11 (SCOI.86022)

<sup>9</sup> Letter from Ms Baumann-Serr to Missing Persons Unit, 22 August 1993 (SCOI.38907).

<sup>10</sup> Letter from the Inquiry to NSWPF re autosomal DNA testing, 1 September 1993 (SCOI.86018).

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13. On 6 September 2023, the NSWPF wrote to the Inquiry and advised that the Northern Territory Police obtained DNA samples from two of Mr Baumann’s siblings in 2016. The NSWPF further advised that the NSW Forensic and Analytical Science Service (**FASS**) may be able to liaise with the Northern Territory Forensic Services (**NTFS**) to arrange for the further testing to be conducted. The NSWPF sought the Inquiry’s consent to contact the NTFS to arrange for the further testing to be conducted.<sup>11</sup>
14. On 7 September 2023, the Inquiry wrote to the NSWPF advising that it consents to the NSWPF contacting the NTFS to arrange for the further testing to be conducted.<sup>12</sup>
15. On 11 September 2023, the NSWPF wrote to the Inquiry advising that the NTFS does not currently have capacity to upload volunteer and victim samples to a National Database. However, the NSWPF was in the process of arranging a ‘Thatcher Form’ so that the samples from Mr Baumann’s relatives can be sent on for testing. It appears that this form is submitted with a view to authorising the release of the DNA samples to the NSWPF, such that testing can be conducted outside of the NTFS.<sup>13</sup>

### Submissions

16. The contents of the written submissions filed on behalf of Mr Gribble and supplementary material do not require any alteration to the submissions made by Counsel Assisting in the written submissions dated 27 June 2023. While there may be room for debate about some of Mr Gribble’s reasons for doubting suicide or engineered disappearance (in particular there was some limited evidence of contact with criminal fraternity<sup>14</sup>, and Mr Gribble acknowledges in his submission that there was evidence of “paranoid rantings” to certain witnesses), Mr Gribble provides cogent reasons why Mr Baumann’s disappearance clearly should have been investigated further rather than being dismissed as either suicide or self-engineered disappearance. Mr Gribble’s submissions reinforce the submissions of Counsel Assisting as to the most likely hypothesis for the death of Mr Baumann and the criticisms directed at the NSWPF investigation into the disappearance of Mr Baumann.
17. As to Mr Gribble’s opinion about the absence of LGBTIQ bias, the written submissions of Counsel Assisting at [156]-[160] set out elements of the case (such as evidence ‘AIDS’ was written on a mirror at the Cross Street premises) which provide some limited grounds to suspect the presence of LGBTIQ bias. However, as indicated in those submissions, at its highest such evidence is inconclusive and there are several alternative hypotheses which are less consistent with the presence of LGBTIQ hate or bias.

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<sup>11</sup> Letter from NSWPF to the Inquiry re DNA samples held by Northern Territory Police, 6 September 2023 (SCOI.86020).

<sup>12</sup> Letter from the Inquiry to NSWPF re facilitation of DNA testing, 7 September 2023 (SCOI.86019).

<sup>13</sup> Letter from NSWPF to the Inquiry re facilitation of DNA testing, 11 September 2023 (SCOI.86021).

<sup>14</sup> Statement of Allan Smyth, 16 November 1993, 1 (SCOI.10850.00023).

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18. The preponderance of evidence indicates that Mr Baumann's family, who were located in Germany, non-native English speakers and unfamiliar with the Australian federal system of government, were effectively left to conduct the investigation themselves due to police inaction in relation to Mr Baumann's case. In this regard, I note that Ms Baumann-Serr had been making inquiries before the NSWPF revived their investigation in 1993 (she says for ten years up to 1993), and only learned about the 1983 missing person report in August 1993.
19. If the NSWPF had conducted a proper investigation into the disappearance of Mr Baumann in 1983, Mr Baumann's family may have learned about his disappearance earlier, instead of being left in a state of doubt and anxiety for such a long period of time.
20. The inquiries conducted by Mr Baumann's family were the types of inquiries the NSWPF should have conducted on a periodic basis from the time that Mr Baumann was reported missing. It is entirely unacceptable that any family member of a missing person should feel compelled to make these types of inquiries given that they amount to normal and routine aspects of police work.
21. It may also be observed that, at least with the benefit of hindsight, it is unfortunate that none of Ms Baumann-Serr's correspondence between 1990 and 1992 led to her being informed of the missing person report. An inference is available that none of the agencies contacted by Ms Baumann-Serr in this time suggested she contact the NSWPF, nor did they make inquiries with the NSWPF about this case themselves. In this respect, the presence or absence of interagency communication did not serve the Baumann family well. This is not necessarily a matter for adverse comment in respect of any particular agency, noting the different functions of those agencies, but it is to be hoped that there are better procedures in place today to ensure or facilitate inquiries being made of the Missing Persons Unit, if people overseas contact government bodies trying to locate a missing relative. It may be appropriate to consider a recommendation that current procedures be reviewed to ensure that this is the case.

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