

14 September 2023

**Reply by Melanie Staples to the submissions of Counsel Assisting & the NSW Police Force in the matter of Anthony Cawsey for the Special Commission of Inquiry into LGBTIQ hate crimes**

Dear Honourable Justice Sackar,

From late 2013 onwards, I was the officer in charge of the investigation into the murder of Anthony Cawsey in my capacity as a Detective Senior Constable at the Homicide Squad, State Crime Command [2011 to 2023]. Anthony Cawsey died in Centennial Parklands on 26 September 2009 of a single stab wound to the chest.

On 31 August 2023, I received correspondence from Mr Enzo Camporeale at the Special Commission of Inquiry (SCOI). This correspondence offered me the opportunity to provide a written submission in response to the submissions of Counsel Assisting. The correspondence stated that "I was not required to make such written submissions, or otherwise to participate in the Inquiry, if I do not wish to do so." While I feel compelled to reply in part, I must acknowledge limitations in my capacity to do so. I presently have limited access to investigation records for this matter. I would also like to express my sincere wish not to have any involvement with the SCOI beyond this reply.

Regarding the evidence for Mr Moses Kellie's involvement in the death of Anthony Cawsey, I rely on my statement dated 9 December 2016 (signed 24 February 2017) for my assessment and summary of the available evidence taken at its highest (reference: SC01.10464.00009).

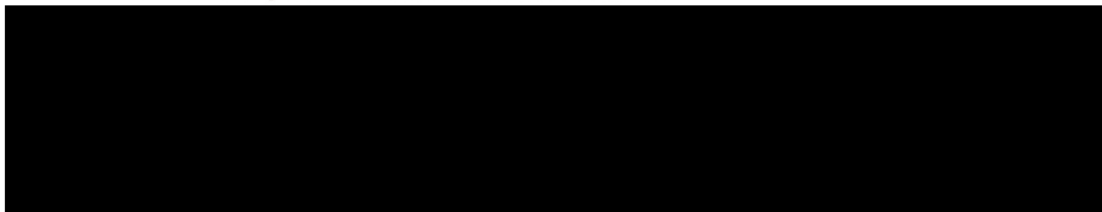
I disagree with the submissions of Counsel Assisting that the evidence is insufficient to establish on the balance of probabilities that Mr Kellie was responsible for inflicting the stab wound suffered by Mr Cawsey. Notwithstanding my own views, I say this primarily because the submissions of Counsel Assisting are not consistent with other legal assessments of the evidence made by specialist practitioners of criminal and coronial law. I would like to record the following:

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- On 11 to 13 December 2017, an inquest into Mr Cawsey's death was conducted by Deputy State Coroner Magistrate Paula Russell at the State Coroners Court, Glebe. On 13 December 2017, Her

Honour suspended the inquest pursuant to s 78(3)(b) of the Coroners Act 2009, having formed the opinion that there was evidence capable of satisfying a jury beyond reasonable doubt that Moses Kellie had committed an indictable offence and that there was a reasonable prospect that a jury would convict him of that offence. On 7 March 2018, her Honour referred the matter to the ODPP pursuant to s 78(4) of the Coroners Act 2009. A copy of Her Honour's correspondence to the ODPP addressing the evidence is SC01.10483.00054.

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- The evidence (the 'admissions' and their reliability; the lies; and the tendency and coincidence evidence) has never been tested in a criminal court.

I don't presume to speak for the ODPP nor have my recollections accepted, however I do note that on 22 June 2022 the SCIO summonsed the ODPP files for Mr Kellie; and on 11 July 2022 the ODPP supplied material to the SCIO. I would be very interested to know whether the ODPP, as the prosecutor of *'serious criminal offences in NSW courts on behalf of the people of NSW'*, ever characterised the evidence against Moses Kellie in a manner consistent with Counsel Assisting's assessment of it falling short of "on the balance of probabilities".

I am somewhat disheartened by the brief 3-page submission made on behalf of the NSW Police Force. I would have hoped for more fulsome support for the Police investigation and at least some counter arguments to the very defence-like assessment of the evidence by Counsel Assisting.

I feel deeply disappointed for the family of Anthony Cawsey. Through the coronial process, Christine Cawsey and Kerry Cawsey heard the evidence for Moses Kellie's involvement in their brother's death. I know they derived great comfort from Deputy State Coroner Russell's decision to refer the matter back to the ODPP for them to reconsider a prosecution of Mr Kellie. I also know that the coronial process provided the Cawsey family with a real sense of closure. Similarly, Deputy State Coroner Russell's decision at the Inquest afforded the community as a whole the comfort that the person responsible for Mr Cawsey's death had been identified. The acceptance of Counsel Assisting's submissions would erode that comfort and closure, and I believe that is unfair and not a reflection of the evidence.

Yours sincerely,

A black rectangular redaction box covering the signature of Melanie Staples.

Melanie Staples