



Special Commission of Inquiry into LGBTIQ hate crimes

18 August 2023

Clint Cochrane
Laboratory Manager, Forensic Biology/DNA
Forensic and Analytical Science Service
480 Weeroona Road
LIDCOMBE NSW 2141

By email: [REDACTED]

Dear Mr Cochrane,

Special Commission of Inquiry into LGBTIQ hate crimes – John Russell

I refer to the above Inquiry, and to the ongoing contact between staff of the Inquiry and the Forensic and Analytical Science Service (“FASS”) regarding the death of John Russell in November 1989.

As you know, the Inquiry seeks a report addressing questions relating to tests carried out on items of Mr Russell’s clothing at various times since 1989, including (at the Inquiry’s request) this year. The nature and content of those questions have been the subject of discussions between FASS and the Inquiry in recent months, and I am aware that the report has been in the course of preparation for some time. This letter formally sets out the questions to be addressed. Thank you for your continuing assistance.

Death of John Russell

Mr Russell was found dead on 23 November 1989 at about 10.30am at the base of a cliff below the walkway of Mackenzie’s Point between Bondi and Tamarama. He had been last seen alive at about 11pm the previous evening 22 November. At the time of his death, he was wearing bone coloured Levi jeans, a red sloppy-joe and Lyrebird brand gym shoes (“the clothing”).

In the course of our Inquiry, it has come to light (and we ask you to assume) that in late November or early December 1989, the clothing was ‘cleaned’ for the purposes of being placed on a mannequin in the course of an appeal to the public for information about Mr Russell’s death. The precise nature of such ‘cleaning’ has not been able to be established. It may have been, for example:

- a. ‘Cleaning’ by way of washing in water only;
- b. ‘Cleaning’ by way of washing in an ordinary washing machine, using a cleaning agent or agents such as detergent;
- c. ‘Cleaning’ by way of washing or dry cleaning in a commercial laundry, using a cleaning agent or agents such as detergent.

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The Inquiry's understanding is that no testing of the clothing, of any kind, was requested of, or carried out by, DAL in 1989/90. Please confirm, or advise if this understanding is incorrect.

The Inquiry also understands that various tests were carried out in three separate subsequent timeframes, namely in or about: 2001/02 (by DAL, at the request of the NSWPF); 2016 (by FASS, at the request of the NSWPF); and in 2022/23 (by FASS, at the request of the Inquiry). Please confirm or advise if this understanding is incorrect.

The Inquiry would be grateful for a report from an appropriately qualified person at FASS, addressing the following questions in relation to the clothing and any other exhibits referable to this matter:

Testing in 1989

1. Was any forensic testing of the clothing carried out by DAL, between November 1989 and July 1990? If so, please outline those results and provide any records held in relation to any such testing.
2. As at November 1989-July 1990, what testing (for DNA or otherwise) could have been conducted on the clothing by DAL, identifying the technology then available, if the clothing had been provided to DAL?

Testing in 2001/2002

3. What clothing referable to this matter was provided to DAL in about June 2001 for forensic testing?
4. What precisely was the testing, using what technology, that was undertaken by DAL in 2001/02 on that clothing? In answering this question, please specify:
 - (a) whether, and by what means, and from where, any samples or extracts were cut or lifted from any part of the clothing;
 - (b) what testing techniques were applied to the clothing and/or to such samples or extracts;
 - (c) what was done with such samples or extracts at the conclusion of such testing.
5. What precisely were the results of all such testing in 2001/02? Please attach any records of results.
6. When were the 2001/02 results conveyed to police? Please attach the relevant correspondence to police.
7. Did DAL suggest in about 2001/02 that a reference sample should be obtained from a family member of Mr Russell so that comparison testing such as Y chromosome testing could occur? If not, why not? What comparison testing was possible at the time?
8. What were the limitations of the relevant testing technology available in 2001/02, by comparison with 2023?

Testing in 2016

9. What clothing, and/or samples, and/or extracts referable to this matter were provided to FASS in 2016 for forensic testing and when?
10. What precisely was the testing, using what technology, that was undertaken by FASS in 2016 on that clothing, and/or samples, and/or extracts? In answering this question, please specify:
 - (a) whether the testing in 2016 was carried out on samples and/or extracts already obtained in 2001/02, or whether the 2016 testing was carried out on different and/or additional samples and/or extracts;

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- (b) if the latter, by what means, and from where, any samples or extracts were cut or lifted from any part of the clothing in 2016;
 - (c) in relation to all testing in 2016, what testing techniques were applied to such samples or extracts;
 - (d) what was done with such samples or extracts at the conclusion of such testing.
11. What precisely were the results of all such 2016 testing? Please attach any records of results.
 12. When were the 2016 results conveyed to police? Please attach any relevant correspondence to police.
 13. Did FASS suggest in 2016 that a reference sample from a family member of Mr Russell should be obtained so that comparison testing such as Y chromosome testing could occur? If not, why not? What comparison testing was possible at the time?
 14. What were the limitations of the relevant testing technology available in 2016, by comparison with 2023?

Testing in 2022/2023

15. What clothing, and/or samples, and/or extracts referable to this matter were tested by FASS in 2022/2023?
16. What precisely was the testing, using what technology, that was undertaken in 2022/2023 on that clothing, and/or samples, and/or extracts? In answering this question, please specify:
 - (a) whether the testing in 2022/23 was carried out on samples and/or extracts already obtained in 2001/02 and/or in 2016, or whether the 2022/23 testing was carried out on different and/or additional samples and/or extracts;
 - (b) if the latter, by what means, and from where, any samples or extracts were cut or lifted from any part of the clothing in 2022/23;
 - (c) in relation to all testing in 2022/23, what testing techniques were applied to such samples or extracts;
 - (d) what was done with such samples or extracts at the conclusion of such testing.
17. What precisely were the results of all such 2022/23 testing (including as to any reference sample)?

Cleaning of clothes

18. Assuming the clothing had been cleaned by police in late November or early December 1989, by any of the three possible methods referred to on the first page of this letter, how would this have affected the testing undertaken in 2002, 2016 and 2022/2023?

Mixed DNA profiles

19. The Inquiry understands that the results of testing carried out in both 2016 and 2022/23 included one or more instances of DNA profiles which had indications of more than one contributor (“mixed DNA profiles”). In that regard, please provide the following information, separately with respect to the 2016 testing and the 2022/23 testing:

As to the 2016 testing

- (a) From precisely which parts of the clothing, and/or samples, and/or extracts (distinguishing between such items provided in 2001 and such items provided in 2016) did such mixed DNA profiles come?

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- (b) Were the same mixed DNA profiles present in all, or more than one, of the jeans, sloppy joe and shoes? In other words, is it possible to say whether the “contributors” (more than one) to the mixed DNA profile on the jeans were the same contributors as for the sloppy joe and/or the shoes?

As to the 2022/23 testing

- (a) From precisely which parts of the clothing, and/or samples, and/or extracts (distinguishing between such items provided in 2001, such items provided in 2016 and such items provided in 2022/23) did such mixed DNA profiles come?
- (b) Were the same mixed DNA profiles present in all, or more than one, of the jeans, sloppy joe and shoes? In other words, is it possible to say whether the “contributors” (more than one) to the mixed DNA profile on the jeans were the same contributors as for the sloppy joe and/or the shoes?

Persistence

20. In respect of all DNA profiles recovered in any of the testing procedures referred to above: what is the likely persistence of that DNA? How long before Mr Russell’s death is it likely that that DNA came in contact with the relevant item of clothing?

Please attach this letter to your report, and include in your report an acknowledgement that you have considered and taken into account its contents. Please also attach any photographs held by FASS of Mr Russell’s clothing and the date of those photographs.

We would be grateful to receive the statement by **23 August 2023**.

Thank you again for your ongoing assistance to the Inquiry.

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

Yours faithfully,



Emily Burston
Senior Solicitor
Solicitor Assisting the Inquiry