

Sensitive: Legal



NSW Police Force

9 November 2023

Mr Enzo Camporeale
 Director, Legal
 Special Commission of Inquiry into LGBTIQ hate crimes
 GPO Box 5341
 SYDNEY NSW 2001

By email: [REDACTED]

Dear Mr Camporeale

Special Commission of Inquiry into LGBTIQ hate crimes – Use of Public DNA Databases

We refer to your letter of 7 November 2023 requesting a response from the Commissioner of Police (**Commissioner**) to a potential recommendation from the Commissioner of the Inquiry in relation to the use of Public DNA Databases and forensic investigative genetic genealogy (**FIGG**).

We note that your letter indicates that the Commissioner of the Inquiry is presently considering making a recommendation that “*the NSWPF utilise FIGG and any available public DNA databases for the purpose of the identification of contributors to certain unidentified DNA profiles obtained in the context of the Inquiry’s work*” (**proposed recommendation**).

Response to proposed recommendation

We are instructed to provide the following response to the proposed recommendation on behalf of the Commissioner.

In recent years, the NSWPF has undertaken a review and assessment of the use of FIGG in the context of NSWPF investigations. That process has included, amongst other things, the following:

- assessment of external vendors to generate the required DNA data;
- assessment of the databases available to law enforcement, and the likelihood of success for Australian cases;
- assessment of genealogical search techniques and how this expertise should be used by the NSWPF (including whether in-house expertise should be developed or whether it would be appropriate to outsource the work);
- the conduct of a Privacy Impact Assessment to assess ethical and privacy implications and mitigation strategies;
- IT security risk assessment of databases;
- legal review of the technique and reference testing, including the receipt of external legal advice;
- development of policy and Standard Operating Procedures; and
- facilitation of training programs by the FBI, and a secondment to FBI Investigative Genealogy Units to review best practice.

The *NSWPF Forensic Investigative Genetic Genealogy – Policy and Standard Operating Procedures (FIGG SOPS)* have been developed in circumstances where FIGG is not presently the subject of the extant legislative framework.

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The use of FIGG is resource intensive. Genealogical searches may, depending on the closeness of the relevant relationship, prove complex and time consuming. Genealogical searches for law enforcement casework in the United States have been known to take many months to resolve. Additionally, data and privacy protection considerations are also potentially complex given the personal and health-related information likely to be produced during the FIGG process.

In those circumstances, the FIGG SOPS set out the conditions that are required to be met in order for a case to be deemed eligible for FIGG. Approval of its use is restricted to the Commander, Forensic Evidence and Technical Services Command.

The Commissioner understands the proposed recommendation will relate to individual cases where the Inquiry considers the use of FIGG may be fruitful. The Commissioner welcomes referrals from the Inquiry in relation to such cases.

In cases where a recommendation is received for consideration to be given to the application of FIGG, the NSWPF will conduct an assessment of the case against the criteria set out in the FIGG SOPS, which will guide the ultimate determination of whether or not FIGG is able to be employed in the relevant case.

Yours sincerely



Katherine Garaty
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