



Special Commission of Inquiry into LGBTIQ hate crimes

10 March 2023

Katherine Garaty
 Director, Crime Disruption and Special Inquiries Law
 Office of the General Counsel

By email: [REDACTED]

Dear Ms Garaty,

NSW Special Commission of Inquiry into LGBTIQ hate crimes: Crispin Dye

I refer to the above Inquiry, and to the ongoing correspondence between the Inquiry and the NSW Police Force ("NSWPF") in relation to the death of Crispin Dye (DOB 1 June 1952).

Mr Dye was assaulted and robbed at around 4.30am on 23 December 1993 near Campbell Street and Little Oxford Street in Darlinghurst. Mr Dye was transported to hospital suffering major head injuries. He succumbed to his injuries and died two days later.

Transport of exhibits for examination by the Forensic and Analytical Science Service ("FASS")

As per my correspondence of 13 January 2023, as part of its examination of Mr Dye's death, the Inquiry requested that the NSWPF transport the following exhibits to FASS:

Item	Exhibit Number
Jeans from Mr Dye	X0000638075
Socks from Mr Dye	X0000638076
T-shirt from Mr Dye	X0000638077
Shoes from Mr Dye	X0000638078
Blue/denim shirt from Mr Dye	X0000638079
Blood sample/blood swab from Mr Dye	Not provided
Head hair sample from Mr Dye	X0000638080
Extendable baton	X0001547254

The Inquiry was informed on 7 February 2023 by Michele Franco, Group Manager of the Evidence Recovery Unit, Forensic Biology/DNA at FASS that each of the exhibits had been safely received by FASS.

Special Commission of Inquiry into LGBTIQ hate crimes

Images of the first five exhibits in the table above are contained in the statement of Detective Senior Constable Lyle Van Leeuwen at photographs 10-14. I have annexed a shortened version of this statement for your reference (**Annexure A**).¹

Developments in relation to these exhibits

Items contained in Mr Dye's shirt (Exhibit No X0000638079)

I note that, as per the Inquiry's agreement with the NSWPF in relation to NSWPF exhibits, the Inquiry has agreed to update the NSWPF about developments in relation to exhibits.

On 14 February 2023, the Inquiry received a call from Ms Franco providing an informal update as to progress with testing the exhibits.

Ms Franco informed the Inquiry that FASS had located two pieces of paper in Mr Dye's shirt (Exhibit No X0000638079) that were folded in the top left front pocket. The first had a handwritten name, apparently "Garry Hook", and a handwritten phone number on it. The second was a white, thick piece of paper with the name "Davidoff Cool Water" which had a brown mark on it that FASS believed might be blood.

The fact that these items were found folded in the top left front pocket of Exhibit No X0000638079 would suggest that the NSWPF was not previously aware of their presence. The Inquiry has searched the files relevant to Mr Dye's death from the NSWPF and the Coroner's Court. The existence of these two items, and any investigation of "Garry Hook", is not mentioned in these files.

Photographs of these items are contained at **Annexure B** to this letter.

These items have not been tested and have been separated from the other exhibits in this case by FASS pending instructions from the Inquiry.

Conference with FASS on 1 March 2023

On 1 March 2023, members of the Inquiry met with Michele Franco and Clint Cochrane from FASS to discuss the items found in Mr Dye's shirt. This conference was held to discuss the possibility that the items could be examined for fingerprints, and what the consequences of any such examination would be on any DNA testing that could be conducted on the brown mark.

FASS informed the Inquiry that they were not able to form a view about whether the brown mark on one of the items was likely to be a fingerprint. However, Ms Franco and Mr Cochrane advised that in their non-expert opinion, it was unlikely that the blood on the white card had simply soaked through from the shirt. This was for two reasons:

- Firstly, the white paper was folded inside the yellow paper and there is no staining on the yellow paper.
- Secondly, the mark on the white paper did not align with the area of staining on the shirt. The staining on the pocket is along the seam, and the staining on the card is indented from the edge.

FASS do not have the expertise to tell whether the brown mark (suspected blood) on the white paper is a fingerprint. Ms Franco and Mr Cochrane recommended that a fingerprint expert from the NSWPF inspect the

¹ Please note that the post-mortem photographs have been excluded from this statement as they are sensitive images.

Special Commission of Inquiry into LGBTIQ hate crimes

mark for this purpose. This may be able to be done via photographs or otherwise by the fingerprint expert attending FASS.

Once a determination is made as to whether the staining is a fingerprint, further recommendations regarding testing can occur. FASS expressed the view that given the level of degradation of the blood samples, any trace DNA from the card is also likely to have degraded to the point where FASS do not recommend conducting trace DNA testing on the card. Fingerprinting is therefore likely to be the more useful forensic avenue.

Queries about the extendable baton (Exhibit No X0001547254)

In my letter to you of 13 January 2023, I requested further information about the extendable baton (Exhibit no X0001547254), listed above, noting that the only details that the Inquiry had been provided with was that this was linked to the death of Mr Dye on the Exhibits Forensic Information & Miscellaneous Property System (“EFIMS”).

On 3 February 2023, you emailed Mr Camporeale and Ms Lockery and indicated that the extendable baton was seized at some point during the original investigation, possibly as a suspected murder weapon.

On 14 February 2023, I wrote to you with several questions about the extendable baton. This letter is attached for convenience, along with an email reply of Patrick Hodgetts dated 22 February 2023 (**Annexure C**).

Records located by the Inquiry

The Inquiry has located records, within the files provided by the NSWPF, relating to a purchase of an extendable baton that was provided to Dr Liliana Schwartz some time between April 1996 and June 1997. Specifically, the Inquiry has located, within the records provided by the NSWPF, a letter from Detective Sergeant Wayne Popplewell of 17 April 1996, requesting approval to purchase of a baton of the same make used by Leonard for Dr Scharzt to better analyse Mr Dye’s injuries. This letter can be found at **Annexure D**.

Additionally, the fact that such a baton was provided to Dr Schwartz is noted in a letter from her to Detective Sergeant Popplewell of 9 July 1997. This letter was referred to by Mr Hodgetts.

As such, it appears likely that the extendable baton currently attached to Mr Dye’s case (EFIMS no X0001547254) is the one purchased by the NSWPF for Dr Schwartz between April 1996-June 1997.

It seems less likely that it is a suspected murder weapon or the baton alleged to have been used by Mr Leonard. This is because there does not appear to be any record of the baton that Mr Leonard was alleged to have used being recovered, nor was a baton mentioned as being seized in relation to another person of interest. In the covert listening device recording of his admissions in custody on 6 December 1996, Mr Leonard appears to suggest that he threw the baton that he used “in the drink” (see **Annexure E**).

Further, in the NSWPF Unsolved Homicide Review team review of the case completed by Detective Senior Constable Barr on 25/05/2005, it is noted that the blunt instrument that caused Mr Dye’s death was “never located” (at p. 4).

Next steps

Given the above, I would be grateful if you could clarify the following matters for the Inquiry:

1. Is a member of the NSWPF with expertise in fingerprinting able to examine the white paper (see Figures 1 and 2 of **Annexure B**) either by inspecting a photograph or viewing the exhibit at FASS, and provide an opinion on whether the brown mark on the white paper is a fingerprint?

Special Commission of Inquiry into LGBTIQ hate crimes

2. Can the NSWPF provide its opinion as to the likelihood that the extendable baton (Exhibit no X0001547254) was, in fact, purchased by the NSWPF between April 1996-June 1997 for the purposes of obtaining an opinion from Dr Schwartz?

I note that the Inquiry anticipates that the case of Mr Dye will be considered in a public hearing of the Inquiry in late April 2023, subject to further developments in this matter.

For this reason, I would be grateful if you could provide an update with any further information by **13 March 2023**. Please let me know if you anticipate any difficulties in this regard.

Please do not hesitate to contact Jacqueline Krynda on [REDACTED] if you have any queries in relation to this matter. If Jacqueline Krynda is not available, please contact Kate Lockery on [REDACTED]

Yours faithfully,



Enzo Camporeale
Director
Solicitor Assisting the Inquiry

Encl. (5)