

From: Michele Franco (NSW Health Pathology) [REDACTED]
Sent: 22/03/2023 7:32:03 AM
To: Jacqueline Krynda [REDACTED]
CC: Kate Lockery [REDACTED]
Subject: RE: Special Commission of Inquiry into LGBTIQ hate crimes - Exhibits for Testing (re Crispin Dye)
Attachments: 232449_Item_3c__yellow post-it both sides.pdf; 232449_Item_3b__photos of both front and back of white card.pdf; 232449_Item_3b_&_3c__white card in storage bag next to yellow post-it.pdf

[CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.]

Dear Jacqueline,

Firstly, to answer your questions from your email dated 10.3.23, please see below.

As part of next steps in this matter could you please provide some further photographs of the two pieces of card that were found in Mr Dye's pocket? It would be useful to have photos of both sides of the pieces of paper, as well as any photographs showing the papers in the form they were found.

Additionally, we would be assisted by any written notes you have taken addressing the following: when you discovered the paper, how they were placed inside in the pocket, how you noticed them, and what you did with them when you took them out. Any photographs of them whilst they were still inside the pocket, if you have them, would also be useful. I also understand that the forensic biologist, Nicole, who attended last week's conference, may have had some material/photos that you were unable to show us at the time. If it is possible for those to be sent through too, that would much appreciated.

I have attached the photographs of the papers. The photo labelled 'items 3b and 3c' show how the papers were folded, that is, once in half and then in half again. The yellow post-it was folded along the sticky edge (directly above the word 'Garry' as seen on the photo).

The papers were not photographed in situ.

It was an unexpected finding to discover the papers in the pocket. The folded white card was enclosed inside the yellow folded post-it note and was located deep down inside the left front pocket on the side nearest to the left arm (away from the stained part of the pocket). Once removed from the pocket the phone number was seen on the yellow paper. The white paper with the stain was seen (see photo 'labelled item 3b_photos of both front and back of white card') and tested and reacted positive to the screening test for blood.

The paper was discovered when the inside of the pocket was just about to be sampled to recover any trace DNA from the pocket lining. Generally, the police remove items like this before it arrives at the lab so that the finding was unexpected. It was hidden from immediate view. The paper clump was immediately removed for closer inspection once it was seen and it was not known if the paper had any relevance. There were no photos taken while the papers were still inside the pocket.

Secondly, to answer your questions from your email dated 16.3.23.....

1. Whether, from your point of view, chemical fingerprint testing of the white and yellow papers will impact the ability to extract DNA from the yellow and white papers;

Chemical fingerprint testing may impact the ability to extract DNA from the apparent bloodstain on the white paper especially if using ninhydrin. A recent journal article highlighted this finding and stated "ninhydrin, a chemical used for process fingerprints present on porous surfaces (wood and paper) significantly reduced DNA recovery" (*Carlin et al, 2023). A further finding was that ninhydrin increased the degradation of the DNA. If the apparent blood stain on the card is over 20 years old, it will be expected to be, like other samples within this case, quite degraded already. There is also added risk of DNA contamination from additional processing being performed during fingerprinting.

There are also DNA degradation issues with testing for DNA after an item has been chemically enhanced for fingerprinting. What I believe would be the best outcome for the sample is if we are able to take a small section of the staining BEFORE it goes to fingerprinting. I could talk to the fingerprinting analyst so that a mutually beneficial outcome for both type of test procedures (fingerprinting and DNA testing) could be arranged. In my experience, it is difficult to recover DNA from skin cells from a person just touching a paper so I think that it is more likely to recover a fingerprint than DNA from any non-stained area of the paper.

* Carlin M, Nickel R, Halstead K, Viray J, Hall A, Ehrlich A. Quantifying DNA loss in laboratory-created latent prints due to fingerprint processing. *Forensic Sci Int.* 2023 Mar;344:111595. doi: 10.1016/j.forsciint.2023.111595. Epub 2023 Feb 2. PMID: 36805977.

2. Whether you think that any useful results can be extracted from the blood on the card;

If the stain is in fact blood and it is human, then there is a high possibility of obtaining useful DNA results. If the apparent blood does not originate from the same unknown contributor as that from the jeans, then there is the potential to identify the profile of a second individual. If the apparent blood stain is in fact from the victim and the print matches a person then this may also give some important evidence.

3. Whether you anticipate that removing the hairs from the yellow post-it before it is provided to NSW Police for fingerprinting will impact fingerprint testing;

We have already removed the hairs from the post-it note. When the post-it note was examined, in order to take a photo of the back of the post-it as per your request, the post-it was unfolded and the sticky part of the post-it note was exposed. It was then noted that the hairs were attached. The post-it was then photographed and the photo is attached (see photo labelled 'item 3c-yellow post-it both sides'). The three hairs were then removed using a pair of tweezers and then placed in a small snap-seal plastic bag so that they wouldn't be lost.

4. The nature of the testing you would propose to carry out on the hair; and

The testing that can be conducted on each hair is a microscopic examination. This would enable us to determine if the hair is of human or non-human origin and if it is suitable for routine DNA typing.

Specialist DNA testing for mitochondrial DNA is also possible but is heavily reliant on comparison samples being available. The searchable database for mitochondrial DNA profiles is extremely limited.

5. Whether the DNA database maintained by FASS has the capability of searching nationally, or just across NSW; and

FASS utilise both NSW and National DNA databases for searching purposes.

Profiles are added to the NSW database on multiple occasions throughout the day, while these profiles are added to the National database daily. The partial profile obtained from the jeans is unlikely to link with any old reference samples on the database. This is because the old reference samples collected prior to about 2010 have typically only been profiled in the Profiler Plus system, which only dealt with 9 locations of the DNA rather than the current 20 locations. There are not enough DNA markers present in the partial profile on the jeans to link with the reference samples typed in Profiler Plus. This limitation applies only to database searching, nominated reference samples can be compared directly to the recovered partial DNA profile.

Y profiles are also searched nationally but most states outside NSW have not uploaded Y profiles on the database, meaning comparison of Y-profiles is extremely limited outside of NSW. Also, the Y database commenced operations in about 2019, so there are few reference samples collected prior to 2019 that have been typed using Y DNA then uploaded.

Furthermore, in relation to the 4 persons of interest mentioned in your email.

We have reference profiles from the following individuals-

- **NP128** (DOB: [REDACTED])

- Richard William Leonard (DOB: [REDACTED])
- NP127 but with **different date of birth** to DOB: [REDACTED] (same year though). The CNI number for the sample that we have is [REDACTED]

The above three individuals are excluded as the contributor of the unknown male profile from the stained area of the jeans from Crispin Dye.

We could not find any record of receiving a reference sample from the following individual-

- NP129 (DOB: [REDACTED])

6. Whether there are any steps that need to be completed by FASS before the yellow post-it and white card are collected by the NSWPF for fingerprinting (we are separately asking the NSWPF whether the fingerprinting can be conducted at FASS).

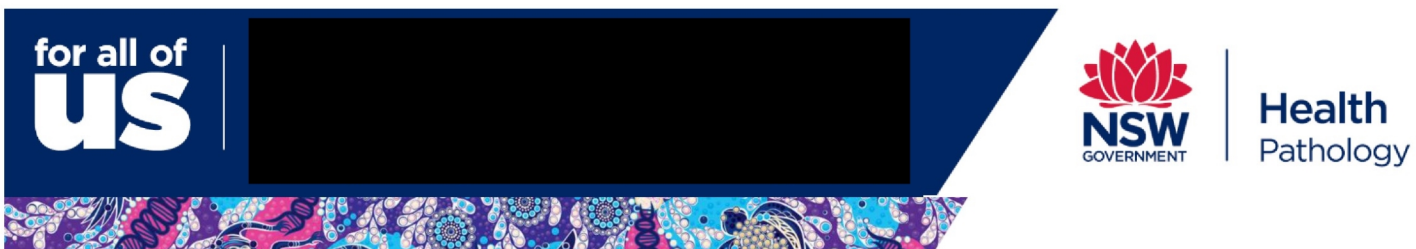
From the photo of the yellow post-it note, there can be seen to be some fibres adhered to the sticky part. I am not an expert in fibre analysis but the blue ones might originate from the wearer's own shirt. There are also red fibres seen in the photo. These red and blue fibres could be retrieved prior to sending for fingerprinting if required. As the post-it was folded so not much of the sticky part was exposed, the fibres (and also the adhered hairs mentioned in question 3) may not be important.

It would be preferable to sample the apparent blood stain before it is fingerprinted or alternatively have the fingerprint analyst use some type of lighting and attend FASS to determine if the stained area is actually of any use. Once the stained area is removed by FASS there is no need to have the white card or the yellow post-it for further testing.

I will send two more photos in another email to follow.
Please let me know if you need me to clarify anything further.

Kind regards,
Michele

Michele Franco
Group Manager, **Evidence Recovery Unit, Forensic Biology/DNA
Forensic & Analytical Science Service**



NSW Health Pathology acknowledges the traditional custodians of the lands on which we work and pay our respects to ancestors and Elders, past, present and emerging. This message is intended for the addressee named and may contain confidential information. If you are not the intended recipient, please delete it and notify the sender.

From: Jacqueline Krynda <[REDACTED]>
Sent: Thursday, 16 March 2023 10:15 AM
To: Michele Franco (NSW Health Pathology) <[REDACTED]>
Cc: Kate Lockery <[REDACTED]>
Subject: RE: Special Commission of Inquiry into LGBTIQ hate crimes - Exhibits for Testing (re Crispin Dye)

Dear Michele,

Thank you very much for your time on the phone on Monday. I confirm that you indicated that the yellow note found in Mr Dye's shirt pocket (Exhibit No X0000638079) appears to be a post-it note and that there were three hairs attached to

it. I also confirm that you indicated that you have located a Y-profile in the blood on the back of Mr Dye's jeans but have not identified a match for this on your database.

Possible next steps

A fingerprint expert from the NSW Police Force has reviewed the photographs that were provided and considers that the brown mark may be a partial fingerprint. The NSWPF would now like to conduct a closer examination with a view to considering whether further analysis is feasible (including the possibility of chemically treating the item to recover fingerprints).

To assist the Inquiry in considering the next steps, could you please advise:

1. Whether, from your point of view, chemical fingerprint testing of the white and yellow papers will impact the ability to extract DNA from the yellow and white papers;
2. Whether you think that any useful results can be extracted from the blood on the card;
3. Whether you anticipate that removing the hairs from the yellow post-it before it is provided to NSW Police for fingerprinting will impact fingerprint testing;
4. The nature of the testing you would propose to carry out on the hair; and
5. Whether the DNA database maintained by FASS has the capability of searching nationally, or just across NSW; and
6. Whether there are any steps that need to be completed by FASS before the yellow post-it and white card are collected by the NSWPF for fingerprinting (we are separately asking the NSWPF whether the fingerprinting can be conducted at FASS).

Please do indicate if these questions are outside your area of expertise (and if so, who they should be directed to).

DNA profiles

Noting the results obtained by FASS in testing exhibits in this case to date, could you please indicate whether DNA profiles for the following individuals are on the FASS database:

- NP128 (DOB: [REDACTED])
- Richard William Leonard (DOB: [REDACTED])
- NP129 (DOB: [REDACTED])
- NP127 (DOB: [REDACTED])

Additional Photographs

Finally, as discussed on the phone, additional photographs and notes about how the papers were discovered (including how you discovered the hair and where it was) would be very helpful. I'd be grateful if you could please send these through at your convenience.

In relation to all of the above, to ensure that we have the most accurate information in our correspondence and records, I would be grateful if you could provide your answers by return email. I will then discuss with the Commissioner.

Thank you again for your assistance, it is very much appreciated.

Please do not hesitate to contact me if you have any queries.

Kind regards,
Jacqueline



Jacqueline Krynda *(she/her)*

Senior Solicitor

Special Commission of Inquiry into LGBTIQ hate crimes



I acknowledge the traditional owners and custodians of country throughout NSW and their continuing connection to the land, culture and community. I pay my respects to Elders past and present.

From: Jacqueline Krynda

Sent: Friday, 10 March 2023 11:21 AM

To: Michele Franco (NSW Health Pathology) <[redacted]>

Cc: Kate Lockery <[redacted]>

Subject: Special Commission of Inquiry into LGBTIQ hate crimes - Exhibits for Testing (re Crispin Dye)

Dear Michele,

Thank you to you and Clint for your time in conference with us last week, it was extremely helpful.

As part of next steps in this matter could you please provide some further photographs of the two pieces of card that were found in Mr Dye's pocket? It would be useful to have photos of both sides of the pieces of paper, as well as any photographs showing the papers in the form they were found.

Additionally, we would be assisted by any written notes you have taken addressing the following: when you discovered the paper, how they were placed inside in the pocket, how you noticed them, and what you did with them when you took them out. Any photographs of them whilst they were still inside the pocket, if you have them, would also be useful.

I also understand that the forensic biologist, Nicole, who attended last week's conference, may have had some material/photos that you were unable to show us at the time. If it is possible for those to be sent through too, that would much appreciated.

Please don't hesitate to contact me if you require any further information or if I can otherwise assist.

Kind regards,
Jacqueline



Jacqueline Krynda *(she/her)*

Senior Solicitor

Special Commission of Inquiry into LGBTIQ hate crimes



I acknowledge the traditional owners and custodians of country throughout NSW and their continuing connection to the land, culture and community. I pay my respects to Elders past and present.

This message is intended for the addressee named and may contain confidential information. If you are not the intended recipient, please delete it and notify the sender.

Views expressed in this message are those of the individual sender, and are not necessarily the views of NSW Health or any of its entities.