



Special Commission of Inquiry into LGBTIQ hate crimes

SUBMISSIONS OF COUNSEL ASSISTING

As at 23 August 2023

IN THE MATTER OF WILLIAM ALLEN

Introduction

1. These submissions are filed on behalf of Counsel Assisting the Special Commission of Inquiry into LGBTIQ hate crimes (**Inquiry**).

Summary of matter

Date and location of death

2. William Emmanuel Allen, also known as Bill, died on 29 December 1988 at his home in Alexandria, NSW. He died as a result of head injury sustained on the evening of 28 December 1988 when he was attacked and beaten in Alexandria Park.¹

Circumstances of death

3. Mr Allen was born on 14 August 1940 and was 48 years old when he died. Mr Allen was a gay man.² He was a schoolteacher by profession before he medically retired due to high blood pressure and stress.³
4. On the evening of 28 December 1988 at around 10:00pm, Mr Allen was assaulted in the vicinity of Alexandria Park.⁴ He was discovered by a passer-by driving along Park Road, Mr Harry Berwick. Mr Allen had blood on his face and signalled for the passer-by to stop. Mr Allen said he had been “bashed ... and kicked” by [REDACTED]. He said they had taken his money and keys.

¹ Findings of State Coroner Waller, Inquest into the death of William Allen, 4 July 1989, 1 (SCOI.00003.00001).

² P109 Report of Occurrence, 29 December 1988, 2 (SCOI.10329.00064).

³ Statement of Joyce Elizabeth Allen, 30 December 1988, 1 (SCOI.10327.00007); Statement of Robert Joseph Dunn, 16 January 1989, 1 (SCOI.10329.00053).

⁴ Statement of Detective Sergeant Brian Saunders, 28 February 1989, 2 (SCOI.10329.00055).

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Mr Berwick implored Mr Allen to report his assault to police, however Mr Allen indicated that his experience could be expected as he had been attending a beat. Mr Berwick gave Mr Allen a lift home.⁵

5. Mr Allen later returned to the scene of the assault in a friend's car to collect his own car at around 12:30am on 29 December 1988. Alexandria Park was about half a mile (about 800m) from where Mr Allen lived.⁶ He encountered Peter Martin, an Ordinance Inspector patrolling the area. Mr Martin was working with Wayne Murphy who was with him at the time. Mr Allen said that he had been bashed by "two or three kids" after dropping in to use the public toilets. He said he had been kicked when he was on the ground. When asked if the offenders got his money, Mr Allen said he had held onto that, whilst grabbing at his back pocket. Mr Martin also encouraged Mr Allen to report his assault to police. Mr Allen then drove home in his own car.⁷
6. Mr Allen was found deceased by his neighbours and a tradesman at around 12:15pm on 29 December 1988. They observed Mr Allen through the bathroom window. He was slumped over the bathtub with his arms and head in the bathtub, and the tap running. Mr Allen was dressed only in a singlet with no underpants or trousers, and was bleeding from the head.⁸ Police and ambulance were contacted, and Mr Allen was declared deceased at the scene.⁹
7. There is evidence that Mr Allen sexually abused boys, including at Penshurst Marist Brothers, where he previously taught science. There is also evidence that Mr Allen was involved in the production of child abuse material and in the production and supply of prohibited drugs.¹⁰
8. The person or persons responsible for the attack on Mr Allen have never been identified.

Findings of post-mortem examination

9. An autopsy was performed by Dr Sylvia Hollinger on 30 December 1988. The autopsy report, dated 10 May 1989, recorded Mr Allen's direct cause of death as head injury with brain damage associated with alcohol ingestion.¹¹ Samples of Mr Allen's blood were taken, and his blood alcohol content was found to be 0.181g per 100ml. A tablet removed from Mr Allen's stomach contained acetyl salicylic

⁵ Statement of Harry Berwick, 11 January 1989, 1 (SCOI.10329.00052).

⁶ Transcript of Coronial Inquest into the death of William Allen, 4 July 1989, 21 (SCOI.84271).

⁷ Statement of Peter Thomas Martin, 11 January 1989, 2 (SCOI.10329.00051).

⁸ Statement of Ronald Sigsworth, 3 January 1989, 1 (SCOI.10327.00005); Statement of David James Oliver, 2 January 1989, 2 (SCOI.10327.00008).

⁹ Statement of Constable Paul Taylor, 22 January 1989 (SCOI.10329.00054); Statement of Detective Sergeant Brian Saunders, 28 February 1989 (SCOI.10329.00055).

¹⁰ Unsolved Homicide Team Triage Form, 24 August 2021, 8-9 (SCOI.03130); Intelligence Report I 2522378, 2 May 1991, 1 (SCOI.73835); Intelligence Report I 11864177, 8 May 2001, 1 (SCOI.73829); Strike Force Parrabell, Bias Crimes Indicators Review Form – William Allen, 28 February 2017, 1407 (SCOI.45313).

¹¹ Post-mortem report of Dr Sylvia Hollinger, 10 May 1989, 2 (SCOI.10329.00067).

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acid, more commonly known as aspirin.¹² This is consistent with reports that Mr Allen was taking two aspirin tablets per day for pain in his legs.¹³

10. An anal swab was taken during the post-mortem examination. It does not appear that this was ever tested. The Inquiry has taken steps to ascertain whether this was in fact the case and if so, whether the Forensic and Analytical Science Service (**FASS**) retains the swab for analysis now (see below at [30]).
11. Mr Allen had numerous injuries consistent with an assault. These included:¹⁴
 - a. Red and blue bruising on the dorsa of both hands and around both wrists;
 - b. A stellate laceration was present above the left eyebrow;
 - c. A markedly swollen and bruised left upper eyelid was present and less blue bruising was present of the right upper and lower eyelids;
 - d. A red abrasion was present on the nose and on the left-hand side of the nose;
 - e. The right cheek was swollen and an x-ray showed a fracture of the ramus of the mandible on the right side;
 - f. A thin laceration was present on the lower lip;
 - g. [REDACTED]
 - h. Two purple bruises were present above the left elbow;
 - i. A linear red abrasion was present on the back of the right arm;
 - j. A red abrasion was present on the left knee;
 - k. A swollen upper lip was present;
 - l. Blue bruising was present on the front of the left leg; and
 - m. A circular purple bruise was present on the right side of the chest and a linear transverse groove was present on the left side of the chest.
12. An examination of Mr Allen's brain revealed swelling as well as subarachnoid haemorrhage and focal intracerebral haemorrhage.¹⁵ [REDACTED]

¹² Toxicology Report, 28 April 1989, 1 (SCOI.10329.00043).

¹³ Statement of Robert Joseph Dunn, 16 January 1989, 1 (SCOI.10329.00053).

¹⁴ Post-mortem report of Dr Sylvia Hollinger, 10 May 1989 (SCOI.10329.00067).

¹⁵ Post-mortem report of Dr Sylvia Hollinger, 10 May 1989 (SCOI.10329.00067).

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[REDACTED]

[REDACTED]¹⁶

13. According to a statement by Constable Paul Taylor, it appears that when Dr Hollinger attended Mr Allen's home on 29 December 1988 and made her initial observations of him, she had considered that there was a possibility that he had been bashed at some stage and told Constable Taylor that there was a large swelling around the eyes and there was a possible fractured jaw.¹⁷ In discussions with the officer in charge, Detective Sergeant Brian Saunders, on 11 January 1989, Dr Hollinger indicated that Mr Allen did not die as a result of a heart attack but could have fallen. This was posited prior to police obtaining information about Mr Allen's attendance at Alexandria Park, and his assault there.¹⁸ At the coronial hearing into his death, the State Coroner found that Mr Allen died of the effects of head injury, sustained on the night of 28 December 1988 when he was beaten by persons unknown in Alexandria Park.¹⁹

Indicators of LGBTIQ status or bias

14. The available evidence strongly suggests that Mr Allen was a gay man. Mr Allen's brother, Stuart Allen, told investigating police that Mr Allen was gay.²⁰ His sister, Joyce Allen, told police that Mr Allen did not discuss his personal life with her but that she believed he was bisexual.²¹
15. Mr Allen's neighbours and acquaintances noted that he regularly had male visitors to his house for barbecues and parties, and also had men visit his house after 10:00pm. Mr Allen's neighbours noticed that he had a frequent visitor named "Robert", apparently Robert Dunn, a close friend and former colleague of Mr Allen's.²²
16. Robert Dunn stated that he and Mr Allen "struck up a relationship" in 1979.²³ Mr Allen and Mr Dunn also lived together for a period of time.²⁴ Mr Dunn was aware that Mr Allen had an HIV test about 12 months before he died, which was negative.²⁵ In his statement to police in 1989, Mr Dunn stated that Mr Allen was not interested in "casual sex" with men because of the risk of AIDS.²⁶ When spoken to by police again

¹⁶ [REDACTED].

¹⁷ Statement of Constable Paul Taylor, 22 January 1989, [8]-[9] (SCOI.10329.00054).

¹⁸ Notes of Detective Sergeant Brian Saunders re Autopsy, undated, 1 (SCOI.10327.00002).

¹⁹ Findings of State Coroner Waller, Inquest into the death of William Allen, 4 July 1989 (SCOI.00003.00001).

²⁰ P109 Report of Occurrence, 29 December 1989, 2 (SCOI.10329.00064).

²¹ Statement of Joyce Elizabeth Allen, 30 December 1988, 1 (SCOI.10327.00007).

²² Statement of Ronald Sigsworth, 3 January 1989, 1 (SCOI.10327.00005); Statement of Eric Edward Jackson, 30 December 1988, 1 (SCOI.10327.00006); Statement of Patricia Alice Wright, 30 December 1988, [4] (SCOI.10327.00004).

²³ Statement of Robert Joseph Dunn, 16 January 1989, 1 (SCOI.10329.00053).

²⁴ Unsolved Homicide Team Triage Form, 24 August 2021, 9 (SCOI.03130); Intelligence Report I 2522378, 2 May 1991, 1 (SCOI.73835).

²⁵ Statement of Robert Joseph Dunn, 16 January 1989, 2 (SCOI.10329.00053).

²⁶ Statement of Robert Joseph Dunn, 16 January 1989, 2 (SCOI.10329.00053).

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- in 1991, Mr Dunn stated that Mr Allen would frequent toilets in the Newtown area, but had ceased this practice as he considered it too dangerous.²⁷
17. Apparatus for the production of amyl nitrate was located in Mr Allen’s laundry/shed.²⁸ This is consistent with information provided by Mr Dunn, who told police Mr Allen manufactured amyl nitrate which was “used by [Mr Allen] and given to his friends”.²⁹ Amyl nitrate is commonly used among men who have sex with men, though it is not used exclusively by this demographic.³⁰
18. At the time of Mr Allen’s death, Alexandria Park was a known beat, particularly the area around the toilet block.³¹
19. On the night of his death, Mr Allen told the man who drove him home from the park after he was assaulted, Mr Berwick, “that’s what you expect when you do the beat”.³² That same night, Peter Martin, an Ordinance Inspector, told Mr Allen, “...there has been a number of homosexuals getting bashed here”.³³ Given the location, time of night and comments made by Mr Allen to Mr Berwick, it is likely that Mr Allen was present at Alexandria Park to use the beat.
20. At the inquest into the death of Mr Allen on 4 July 1989, the State Coroner heard evidence that Alexandria Park was “a known area of resort by homosexuals.” Detective Sergeant Saunders agreed that gay men were beaten up there from time to time and that in fact, neighbours had told police during their canvass of the area that on several occasions people had asked to use their phone after being assaulted in those toilets, but “never - never ever to contact police.” Detective Sergeant Saunders told the State Coroner he had contacted the Police Gay Liaison Unit, who ran a number of articles in newspapers wishing for homosexuals who have been assaulted in parks to come forward, however, they got a very poor response.”³⁴

²⁷ Unsolved Homicide Team Triage Form, 24 August 2021, 9 (SCOI.03130); Intelligence Report I 2522378, 2 May 1991, 1 (SCOI.73835).

²⁸ Strike Force Parrabell, Bias Crimes Indicators Review Form – William Allen, 28 February 2017, 1407 (SCOI.45313).

²⁹ Strike Force Parrabell, Bias Crimes Indicators Review Form – William Allen, 28 February 2017, 1407 (SCOI.45313).

³⁰ Strike Force Parrabell, Bias Crimes Indicators Review Form – William Allen, 28 February 2017, 1407 (SCOI.45313); ‘Amyl Nitrate’, *Alcohol and Drug Foundation* (last updated 10 January 2023, accessed 10 May 2023) <https://adf.org.au/drug-facts/amyl-nitrite/>

³¹ Strike Force Parrabell, Bias Crimes Indicators Review Form – William Allen, 28 February 2017, 1398 (SCOI.45313); Exhibit 2, Tab 1, Statement of Garry Wotherspoon, 14 November 2022, [38] (SCOI.77300); Exhibit 2, Tab 5, Statement of Barry Charles, 14 November 2022, [129]-[144] (SCOI.77304).

³² Statement of Harry Berwick, 11 January 1989, 1 (SCOI.10329.00052).

³³ Statement of Peter Thomas Martin, 11 January 1989, 2 (SCOI.10329.00051).

³⁴ Transcript of Coronial Inquest into the death of William Allen, 4 July 1989, 21 (SCOI.84271).

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21. In a further statement to the Inquiry, Mr Berwick said that he had been a user of the beat but did not use the beat at night because he considered it too dangerous.³⁵ He said the beat was “very open” and the lighting was “poor”.³⁶
22. The Inquiry is aware, including from the evidence of activist Barry Charles, of other assaults on gay men at Alexandria Park.³⁷ The Inquiry also received evidence in a public hearing of newspaper reports regarding the widespread nature of assaults on gay men. In an article published in the *Sydney Morning Herald* on 6 April 1991 titled, “*In the Gay Killing Fields*”, author Martyn Goddard wrote,³⁸
- “Poofter bashing exists throughout all levels of Australian society, but in some cases a lethal culture of this violence develops amongst teenage boys. It has been happening in Alexandria and Waterloo for years.”*
23. Alexandria Park was also the location of the murder of Richard Johnson in 1990 for which eight teenagers were charged and convicted and became known as the “Alexandria Eight”.³⁹ Mr Johnson was lured to the park on the pretext of a “homosexual liaison”⁴⁰ after one or more of the boys called his number after acquiring it from inside the toilet block at Alexandria Park where it was written. Upon his arrival at the toilet block, he was set upon and beaten by the eight boys. He died at the scene.⁴¹
24. In April 1991, having led the investigations into the death of Mr Richard Johnson and the death of Kritchikorn Rattanajurathaporn at Bondi in July 1990, both of whom were gay men, former Detective Sergeant Steven McCann compiled a summary of the links and connections he had discovered in relation to attacks on gay men, including attacks resulting in deaths, in Sydney. In August 1991, he compiled a more detailed account of the connections between these attacks. Detective Sergeant McCann included the circumstances of the death of Mr Allen, and the various persons of interest, in these letters.⁴² This reflected Detective Sergeant McCann’s view that the death of Mr Allen may have been motivated by gay-hate bias.

³⁵ Statement of Harry Berwick, 28 June 2023, [19] (SCOI.84270).

³⁶ Statement of Harry Berwick, 28 June 2023, [15]-[16] (SCOI.84270).

³⁷ Exhibit 2, Tab 5, Statement of Barry Charles, 14 November 2022, [129]-[144] (SCOI.77304).

³⁸ Exhibit 2, Tab 51, Martyn Goddard, 'In the Gay Killing Fields', *The Sydney Morning Herald* (Sydney), 6 April 1991 (SCOI.76914).

³⁹ Exhibit 6, Tab 49, Strike Force Parrabell Case Summaries, 20 (SCOI.76961.00014).

⁴⁰ Exhibit 6, Tab 233, Statement of Steven McCann, 10 November 2022, [14] (SCOI.77310).

⁴¹ *R v [NP41] R v [NP21]; R v [NP19] R v [NP15]*; NSWSC (Badgery-Parker J) (sentence), 15 April 1991, 1-2 (SCOI.02477).

⁴² Exhibit 6, Tab 233, Statement of Steven McCann, 10 November 2022, [8], [11]-[12], [15] (SCOI.77310); Exhibit 6, Tab 233A, Letter from Steve McCann to The Commander, Modus Operandi Section, 10 August 1991 (SCOI.10342.00010); Exhibit 6, Tab 233B, Letter from Steve McCann to Chief Superintendent Norm Maroney, 15 April 1991 (SCOI.10445.00128).

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Persons of interest

25. During the police investigation which occurred between 29 December 1988 and the coronial inquest into Mr Allen's death on 4 July 1989, it appears that no persons of interest were identified.
26. On 13 May 1991, a 17-year-old boy named [NP141] attended Surry Hills Police Station and advised that he had been involved in the attack on Mr Allen. However, [NP141] later admitted that he was being treated for depression and had recently attempted suicide, and made the confessions in an attempt to seek medical attention, feeling that being institutionalised was the only way for him to obtain such health care.⁴³ [NP141] had previously been involved in an assault on a gay man, [I158] [I158], on 12 July 1988 in company of other boys. One of these boys was [NP16] who was later found guilty, with a number of other boys, of the murder of Richard Johnson.⁴⁴ [NP141] appears to have been discounted as a genuine person of interest by police in the investigation of Mr Allen's death. However, there is limited material before the Inquiry as to the consideration by police of [NP141]'s status as a person of interest.
27. In February 1991, Colin Fisk provided information to police in which he nominated a boy named "[I356]" as potentially being involved in the death of Mr Allen. Mr Fisk told police that [I356] was a heroin addict and had a prior association with Mr Allen.⁴⁵ "[I356]" does not appear to have been considered a person of interest in Mr Allen's death by police.
28. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] former Detective Sergeant McCann conducted a further investigation into the death of Mr Allen in 1990 – 1991. The investigation involved covert operations including the use of listening devices to lawfully record conversations with certain persons, including members of the Alexandria Eight, who by then were serving their sentences for their involvement in the death of Mr Johnson.⁴⁷
29. The evidence obtained from the listening devices did not lead to charges being brought against anyone.

⁴³ P109 Record of occurrence regarding interview of [NP141], 13 May 1991 (SCOI.10331.00011).

⁴⁴ P83 Juvenile Report, 12 July 1988, 7 (SCOI.26326).

⁴⁵ Unsolved Homicide Team Triage Form, 24 August 2021, 9 (SCOI.03130); Intelligence Report (I 1927659), 27 February 1991 (SCOI.73832).

⁴⁶ [REDACTED]

⁴⁷ Exhibit 6, Tab 230, Statement of Detective Sergeant Stephen Page, 25 July 2002, [128]-[165] (SCOI.02744.00023).

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Exhibits: availability and testing

30. On 2 June 2023, the Inquiry requested that FASS provide to the Inquiry:
- a. Any P377 forms or other records of exhibits provided to FASS in relation to Mr Allen's death;
 - b. Any documents containing information in relation to whether hairs, fingernails or anal swabs were forensically examined, including any results; and
 - c. Any documents notifying whether FASS has retained any samples of the hairs, fingernails or anal swab collected at the time of Mr Allen's death.⁴⁸
31. On 23 June 2023, FASS advised the Inquiry that checks were conducted of the Forensic Biology receipt books over the time period from December 1988 until the end of February 1989 and no records relating to the death of Mr Allen could be located.⁴⁹ It is therefore not possible to know whether there was any forensic testing done on any exhibits and as is submitted further below, the exhibits cannot be located by the NSW Police Force (**NSWPF**) and cannot now be subjected to testing.

Findings at inquest, including as to manner and cause of death

32. A coronial inquest was held on 4 July 1989 before State Coroner Kevin Waller, with assistance from Sergeant Shields. Mr Allen's brother and sister were in attendance.⁵⁰
33. State Coroner Waller found that Mr Allen "died of the effects of head injury, sustained on the night of the 28th day of December, 1988 when he was beaten by persons unknown in Alexandria Park".⁵¹
34. The State Coroner's full findings and observations on the evidence are worth noting in full:⁵²

"...the deceased was a 50-year-old man, apparently homosexual. He is shown to have gone to Alexandria Park, a place frequented by that sort of person, and was set upon there and bashed and beaten by unknown persons [REDACTED]; at least he said they were. There is no reason to doubt what he said. It is a risk of people, as the deceased himself admitted, when you are on the beat, you take the risk that people indulge in the sport of chasing and assaulting homosexuals, which is a disgraceful state of affairs, and, indeed, this is the second case I have had where a person has died as a result of being assaulted in the park by homosexuals [sic]. Of course, one could say, "Well, you shouldn't go to the park", but one can say, I think with perhaps more strength, that you shouldn't set about in numbers to assault people to such an extent that you kill them. It is a dreadful sort of business and I wish the people could be caught. It is made even worse by the fact that those violent persons revel and enjoy the situation that the victims do not

⁴⁸ Email from the Inquiry to FASS re William Allen, 2 June 2023 (SCOI.85154).

⁴⁹ Email from FASS to the Inquiry re William Allen, 21 June 2023 (SCOI.85153).

⁵⁰ Master Tape History for Inquest into the death of William Allen, 4 July 1989 (SCOI.00003.00004)

⁵¹ Findings of State Coroner Waller, Inquest into the death of William Allen, 4 July 1989, 1 (SCOI.00003.00001).

⁵² Transcript of Coronial Inquest into the death of William Allen, 4 July 1989, 26.10-32 (SCOI.84271).

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like to report these crimes to police because of the ignominy that attaches to their roles as cruising homosexuals, but, nevertheless, it is a very sad case and I am sorry for the deceased and his family."

Criminal proceedings

35. No criminal proceedings occurred as a consequence of Mr Allen's death.

Features of the original police investigation

36. Following the discovery of Mr Allen's body, his neighbours called the police.⁵³ Police attended Mr Allen's property and observed dried blood on the footpath leading from the front gate to the rear of the premises and drops of blood on the front veranda of a neighbouring house close to the side passage of Mr Allen's property. There was blood leading from the bathroom to the front bedroom, on the bathroom window frame and on the bedding. There were no signs of forced entry and no items appeared to have been stolen.⁵⁴
37. Mr Allen was found kneeling beside the bathtub dressed only in a t-shirt with his arms and head hanging over into the bath, with blood coming from his head.⁵⁵ A three centimetre laceration was observed above his left eye, and there was swelling to the same eye and to the lips and jaw.⁵⁶
38. Detective Sergeant Cameron of the Crime Scene Unit expressed the view that, reconstructing the scene, Mr Allen was injured elsewhere and returned home. He climbed over the dividing wall or fence between numbers 19 and 21 and walked up the side passageway of his house, and entered the property via the bathroom window. He walked through the house and laid down in his bed, leaving bloodstains. He also smoked cigarettes and drank from a glass, based on bloodstained items in the kitchen sink. Sometime later, Mr Allen collapsed in the bathroom.⁵⁷
39. A number of videotapes were discovered during the search of Mr Allen's property, some of which contained child abuse material.⁵⁸ These video tapes were not taken into evidence, but were left at the property and later taken by a member of the public who knew Mr Allen. That person shared the tapes with another acquaintance of Mr Allen.⁵⁹ The latter person gave a statement to the NSWPF in 1991 in which they said that, when they saw the content they were revolted and wiped all the cassettes other

⁵³ Statement of Ronald Sigsworth, 3 January 1989 (SCOI.10327.00005).

⁵⁴ Statement of Constable Paul Taylor, 22 January 1989, [5]-[7] (SCOI.10329.00054); Statement of Detective Sergeant Brian Saunders, 28 February 1989, 1 (SCOI.10329.00055).

⁵⁵ Statement of Constable Paul Taylor, 22 January 1989, [4] (SCOI.10329.00054).

⁵⁶ Statement of Detective Sergeant Brian Saunders, 28 February 1989, 1 (SCOI.10329.00055); Statement of Detective Sergeant Carlton Graeme Cameron, 4 July 1989, [6] (SCOI.10329.00083).

⁵⁷ Statement of Detective Sergeant Carlton Graeme Cameron, 4 July 1989, [11] (SCOI.10329.00083).

⁵⁸ Transcript of the Inquiry, 5 July 2023, T4988.38-41 (TRA.00073.00001).

⁵⁹ Statement of [redacted] 1427, 19 August 1991, [4]-[5] (SCOI.10329.00034); Unsolved Homicide Team Triage Form, 24 August 2021, 11 (SCOI.03130).

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than a cassette containing footage of Mr Allen and his friends on holiday.⁶⁰ The admissibility of this statement requires separate attention and is addressed in these submissions at [64]-[68] below.

40. Statements were collected from Mr Allen's friends, family and neighbours, and other witnesses including Mr Martin. The passer-by, Mr Berwick, whom Mr Allen flagged down, came to the attention of police after Mr Allen's brother, Stuart Allen, heard from other friends in the area that he had driven past Mr Allen the night he was assaulted.⁶¹ A canvass was conducted of Buckland Street, Alexandria, however no useful information was obtained. A number of youths "of the hoodlum element" who were known to frequent Alexandria Park were spoken to, but again no useful information was obtained.⁶² No specific record or canvass form recording the youths who were spoken to has been produced to the Inquiry.
41. Fingerprints were lifted from items in Mr Allen's house, namely from two wine carafes and a jar of coffee. The identified fingerprints belonged to Mr Allen.⁶³
42. Mr Allen's brother, Stuart Allen, was contacted requesting a photograph of Mr Allen with the view to having it placed in the Daily Mirror newspaper together with a story surrounding his death. However, the request was denied. Mr Stuart Allen said that the family did not wish any further publicity.⁶⁴
43. In 1991, further investigative steps were undertaken by other police officers regarding Mr Allen's death. Mr Fisk and Mr Dunn (both of whom had been arrested by police for the sexual abuse of young boys by this time) provided police with information that Mr Allen was involved in the supply of illicit drugs and cultivated cannabis, and that he had a large amount of money on his premises prior to his death. Mr Allen also had a number of video tapes containing child abuse material, variously made by and featuring Mr Allen and his associates.⁶⁵ This information was not before the Coroner at the time of the inquest into Mr Allen's death.

Steps which could / should have been taken, but which were not

44. First, police knew Alexandria Park was a beat. So much is clear from the coronial transcript. There was a possibility that Mr Allen was bashed while attending the toilet block as a beat. The Inquiry has photographs that were taken of the inside of the toilet block by police on 3 February 1990, following

⁶⁰ Statement of [REDACTED] 1427 19 August 1991, [4]-[5] (SCOI.10329.00034).

⁶¹ Transcript of Coronial Inquest into the death of William Allen, 4 July 1989, 21-22 (SCOI.84271).

⁶² Statement of Detective Sergeant Brian Saunders, 28 February 1989, 2 (SCOI.10329.00055).

⁶³ Fingerprints Running Sheet, 29 December 1988 (SCOI.10332.00007).

⁶⁴ Statement of Detective Sergeant Brian Saunders, 28 February 1989, 2 (SCOI.10329.00055).

⁶⁵ Strike Force Parrabell Bias Crimes Indicators Review Form – William Allen, 28 February 2017, 1395, 1397 (SCOI.45313).

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the death of Richard Johnson. The walls contained numerous messages seeking or inviting sexual encounters with telephone numbers. Appreciating that those photos were taken over a year after Mr Allen's death, they reflect, it is submitted, the likely state of the inside of the toilet block in December 1988. This is also consistent with information from Mr Berwick who told the Inquiry in his most recent statement that writing your phone number on the wall of the toilet block was a common practice by men living alone and wanting to meet men at the beat.⁶⁶ Mr Allen also told him that he had written his phone number on the toilet block wall. He said this as part of the conversation where he said, "that's what you get when you do the beat".⁶⁷ It is submitted that it should have been obvious to anyone looking at the walls at the time that if Mr Allen had been attending the toilet block as a beat then his number may be on that wall. This is regardless of the fact that Mr Berwick's original statement did not include information about Mr Allen's phone number possibly being on the wall. The toilet wall should have been reviewed for Mr Allen's phone number. Yet, no officer thought to check if Mr Allen had placed his phone number in the toilet block. The failure to make any examination of this kind was a significant oversight. The significance of the oversight only becomes starker when one has regard to the photos that were taken by police of the inside walls of the toilet block after the death of Richard Johnson.⁶⁸

45. The possibility that Mr Allen's phone number was on the toilet wall might have informed the direction of the police investigation, including conducting night patrols of the park and any nearby phone boxes for any potential persons of interest. Even if this was not how Mr Allen was killed, the failure to pursue this line of investigation may reflect police indifference to homosexual men being assaulted in Alexandria Park. An active investigation may have prevented the conduct in the future or reduced its prevalence earlier. The Coroner clearly wished something could be done. There is the possibility (admittedly speculative) that if police had pursued this line of investigation more actively in 1989, future assaults and even future homicides might have been avoided. It could have also informed future reviews and investigations into Mr Allen's death, particularly after Richard Johnson's murder. The information might have been used to better inform the strategy around the use of listening devices in 1991.
46. It is now not possible to know whether Mr Allen's number was on the toilet wall and whether he received a call from a location proximate to Alexandria Park the night he was assaulted.

⁶⁶ Supplementary statement of Harry Berwick, 28 June 2023, [8] (SCOI.84270).

⁶⁷ Supplementary statement of Harry Berwick, 28 June 2023, [8] (SCOI.84270).

⁶⁸ Photographs of the Alexandria Park Toilet Block (taken during investigation into the death of Richard Johnson), 3 February 1990 (SCOI.85149).

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47. Second, the child abuse material found at Mr Allen’s home should have been seized by police. As noted above at [39], investigations reveal that the video tapes were later taken by a member of the public.
48. While there is no evidence before the Inquiry to suggest that Detective Sergeant Saunders, as officer in charge of the initial investigation, acted with malicious intent in failing to take this material into evidence, this was at the very least a substantial neglect of his duties to the public. If the videos recorded child abuse material as the contemporaneous records indicate, it would have been evident to even a layperson that the videos ought to have been provided to the relevant authorities to aid in the care of children and their protection from further abuse, as well as for the further investigation of the crimes they revealed. The tapes might also have shed light on the identities of victims of sexual abuse, noting sexual abuse may have been a potential motive for the assault on Mr Allen. During his evidence to this Inquiry, Detective Inspector Nigel Warren said that the video tapes would have been “an avenue...to identify persons that could lead to information...about perhaps something that happened before [Mr Allen] was at the toilet block.”⁶⁹ The identification of persons in the tapes could also give police “insight into persons that Mr Allen had connection with.”⁷⁰ Detective Inspector Warren was however unable to assist with whether the failure by police to seize the material was in accordance with proper police practice at the time,⁷¹ although told the Inquiry that today it would be expected that police would seize such material.⁷²
49. In fairness to the NSWPF, it should be recognised that the Internal Police Security Branch (**IPSB**) conducted an investigation, following complaints by Mr Dunn and Mr Fisk, into aspects of the original police investigation.⁷³ These submissions and any documentary tender in an open hearing need to take care about the evidence emerging from the IPSB investigation, given the combined effect of s 9(3) of the *Special Commissions of Inquiry Act 1983 (SCOI Act)*, s 170 of the *Police Act 1990 (Police Act)*, cl 25(2) of Schedule 4 of the *Police Act* and s 59 of the *Police Regulation (Allegations of Misconduct) Act 1978* as in force prior to 1990. These submissions return to this issue below.
50. Thirdly, Crime Scene Officer, Karen Halbert has said in an expert certificate to the Inquiry dated 14 June 2023 that she had reviewed historical case information relating to the fingerprint examination of Mr Allen’s home and a silver Holden Astra, by officers on 29 December 1988.⁷⁴ A running sheet noted that Mr Allen was fully eliminated as the source of these fingerprints. However, there were no

⁶⁹ Transcript of the Inquiry, 5 July 2023, T4989.18-20 (TRA.00073.00001).

⁷⁰ Transcript of the Inquiry, 5 July 2023, T4989.11-12 (TRA.00073.00001).

⁷¹ Transcript of the Inquiry, 5 July 2023, T4989.22-28 (TRA.00073.00001).

⁷² Transcript of the Inquiry, 5 July 2023, T4988.44-46 (TRA.00073.00001).

⁷³ Statement of Kathryn Lockery, 23 August 2023, [7] (SCOI.85150).

⁷⁴ Expert Certificate of Karen Halbert, Crime Scene Officer – Fingerprints, 15 June 2023 (NPL.0100.0020.0002).

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fingerprint determinations or results recorded as to which fingerprints were identified. This was, at the very least, poor record keeping by police. The Inquiry requested further fingerprint examinations and the results of those examinations are detailed below at [84].

Later reviews

Information obtained following the arrest of Robert Dunn and others

51. At the time of the IPSB investigation, further information had come to light indicating that Mr Allen had allegedly perpetrated a number of child sex offences and produced and featured in child abuse material.⁷⁵ That information is relevant to a possible motive for Mr Allen’s murder.
52. The evidence of Mr Allen’s suspected involvement in child sex offences is outlined and considered by the Unsolved Homicide Team (**UHT**) in their triage of Mr Allen’s death in 2021.⁷⁶ In summary, the evidence suggested:
 - a. suspected child sex offences perpetrated by Mr Allen on students when he was a teacher at Marist College in Penshurst;⁷⁷
 - b. that Mr Allen allegedly made film recordings of sexual abuse of children by adults and himself appeared in such film recordings and had a collection of child abuse material;⁷⁸
 - c. that Mr Allen allegedly had [REDACTED] and that he would “cruise the Alexandria Park, near the school”;⁷⁹ and
 - d. that Mr Allen allegedly supplied illicit drugs, specifically marijuana and amphetamines.⁸⁰
53. It is important to treat this evidence with caution. It is neither necessary nor appropriate for the Commissioner to make findings of criminal guilt in relation to Mr Allen’s suspected involvement in child sex offences. The focus of this Inquiry is on the manner and cause of Mr Allen’s death. However, the Inquiry’s terms of reference calls for consideration of possible motives for Mr Allen’s murder, and the evidence of Mr Allen’s suspected involvement in child sex offences and the supply of illicit drugs may be relevant in this regard. That evidence is also relevant to the police investigation into Mr Allen’s murder – including possible lines of inquiry which were not pursued and what information was

⁷⁵ Unsolved Homicide Team Triage Form, 24 August 2021, 8-10 (SCOI.03130).

⁷⁶ Unsolved Homicide Team Triage Form, 24 August 2021 (SCOI.03130).

⁷⁷ Intelligence Report I11864177, 8 May 2001 (SCOI.73829); Unsolved Homicide Team Triage Form, 24 August 2021, 9 (SCOI.03130).

⁷⁸ Intelligence Report (I 1927659), 27 February 1991 (SCOI.73832); Intelligence Report (I2522378), 2 May 1991 (SCOI.73835); Unsolved Homicide Team Triage Form, 24 August 2021, 8-9 (SCOI.03130).

⁷⁹ Intelligence Report (I 1927659), 27 February 1991 (SCOI.73832); Unsolved Homicide Team Triage Form, 24 August 2021, 9 (SCOI.03130).

⁸⁰ Unsolved Homicide Team Triage Form, 24 August 2021, 9 (SCOI.03130).

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available to the police at various points in time. It would be a disservice to the victims of child sex offences for the evidence to be altogether ignored.

54. In making submissions about this evidence, Counsel Assisting is mindful of the submission made elsewhere that it is flawed to dismiss queer hate crimes by reference to the concept of “anti-paedophile animus”.⁸¹ [REDACTED]
- [REDACTED]
- [REDACTED]. Nothing in these submissions should be understood as detracting from the importance of denouncing the perpetration of queer hate crimes. Furthermore, the perpetuation of any sort of perception that men who had sex with men were paedophiles, or more likely to be paedophiles, is offensive and has been responsible for substantial harm to the LGBTIQ community.

Listening device material and other evidence in relation to the Alexandria Eight

55. As noted above, the murder of Richard Johnson occurred at Alexandria Park on 24 January 1990, at the hands of a group of teenage boys known collectively as the Alexandria Eight.⁸² A series of operations involving the use of listening devices were conducted to record the conversations of a number of members of this group and their associates whilst in custody in 1991. [REDACTED]
- [REDACTED]

56. [REDACTED]

57. [REDACTED]

⁸¹ Written Submissions of Counsel Assisting the Inquiry – Public Hearing 2, 7 June 2023, [1230]-[1256] (SCOI.84380).

⁸² Exhibit 6, Tab 49, Strike Force Parrabell Case Summaries, 20 (SCOI.76961.00014).

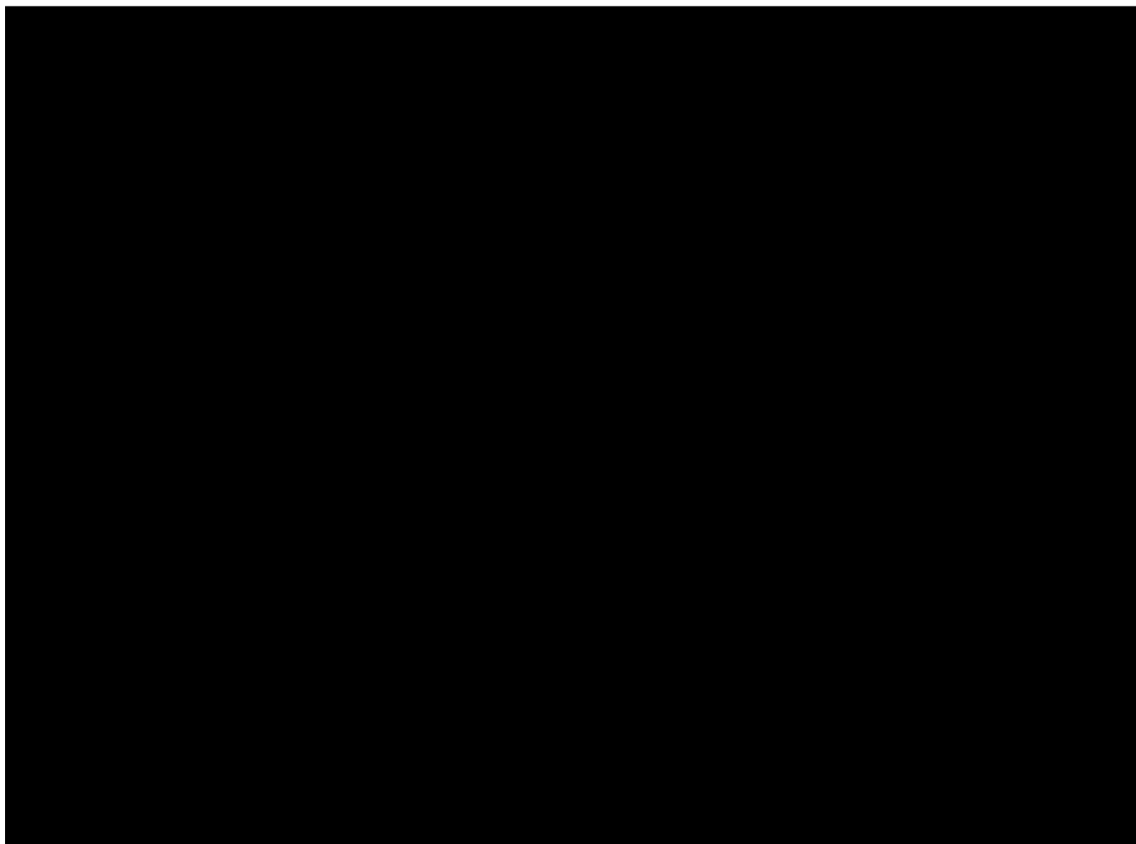
⁸³ [REDACTED]

⁸⁴ [REDACTED]

⁸⁵ [REDACTED]

⁸⁶ [REDACTED]

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58. Detective Sergeant Steve McCann summed up the evidence obtained through the listening devices in his letter of 10 August 1991 to the Commander of the Modus Operandi Section. He said:⁹⁶
- a. [NP18] [NP15] and [NP42] did not implicate themselves on tape nor did [NP19].
 - b. [NP16] and [NP19] make passing reference to the incident and indicate some knowledge of it implicating [NP44], [NP45] and [NP42].

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⁹⁶ Exhibit 6, Tab 233A, Letter from Steve McCann to The Commander, Modus Operandi Section, 10 August 1991, [21]-[22] (SCOI.10342.00010).

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- c. [NP44] and [NP45] had been interviewed by police and had denied their involvement.
- d. The information would be retained for future attention if any further corroboration was forthcoming.

CrimeStoppers Report

59. On 23 June 2015 an anonymous report was made to CrimeStoppers by a person [REDACTED]
[REDACTED]
[REDACTED].⁹⁷ [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
60. It is concerning that the investigators did not obtain a formal statement from the informant, nor do they appear to have followed up on the information provided by interviewing the persons implicated. Whilst, as with the listening device material, there is scope for misinformation due to the desire of young inmates to appear tough and intimidating in the company of other offenders, the information provided by the above-mentioned informant may have proved of importance in uncovering the identity of the perpetrators of this case and a number of deaths suspected of being LGBTIQ hate crimes.

UHT Review

61. On 24 August 2021 Detective Senior Constable Kim Fidden completed a Triage Form for a review by the UHT.⁹⁹ Detective Senior Constable Fidden assessed that the matter should proceed to review.
62. The material before the Inquiry, including a Tracking File maintained by the UHT, revealed that no review ever occurred following the submission of Detective Senior Constable Fidden's Triage Form. It is not apparent on a review of the material why a review by the UHT has not occurred.
63. It should be noted that the Triage Form, in the section titled "Exhibits", records that no exhibits were collected but also says that Detective Constable Bramah "mentions that somebody returned to the premises at a later stage and obtained the video's but nothing further".¹⁰⁰ On one reading, this

⁹⁷ Investigators Note re CrimeStoppers Report, 21 September 2015 (SCOI.83972).

⁹⁸ Investigators Note re CrimeStoppers Report, 21 September 2015, 3 (SCOI.83972).

⁹⁹ Unsolved Homicide Team Triage Form, 24 August 2021 (SCOI.03130).

¹⁰⁰ Unsolved Homicide Team Triage Form, 24 August 2021, 11 (SCOI.03130).

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misleadingly suggests that the video cassettes were later collected by a police officer. The evidence obtained by the Inquiry, specifically the statement by an acquaintance of Mr Allen in 1991 (see [39] above), clearly records that the cassettes were in fact collected by another person known to Mr Allen. The Inquiry has received no information that is inconsistent with the 1991 statement.

64. This raises the issue of the admissibility of the 1991 statement of 1427. The SCOI Act only permits the evidence to be received in a public hearing if the Commissioner is of the opinion that it would be likely to be admissible in evidence in civil proceedings: s 9(3) of the SCOI Act.¹⁰¹
65. The statement was prepared in the context of an investigation by the IPSB. At the time of the ISPB investigation, the *Police Regulation (Allegations of Misconduct) Act 1978 (the 1978 Act)* dealt with investigations by the Internal Affairs Branch. Section 59 of the 1978 Act declared “a document brought into existence for the purposes of this Act” to be inadmissible in other proceedings (with certain exceptions). The *Police Services (Complaints, Discipline and Appeals) Amendment Act 1993 (the 1993 Amending Act)* introduced s 172A into the *Police Service Act 1990* (as the *Police Act* was then known) in the context of introducing Part 8A. However, the 1993 Amending Act also introduced Part 6 to Schedule 4 of the *Police Service Act*. Clause 25(2) in Part 6 of Schedule 4 states that Part 8A extends to conduct occurring after the commencement of the “former complaints Act”, i.e. the 1978 Act. Clause 25(3) states that anything duly done before the commencement of Part 8A under a provision of the former complaints Act is (subject to the regulations) taken to have been duly done under the corresponding provision of Part 8A.
66. Section 170 of the *Police Act* provides that a document brought into existence for the purposes of this Part is not admissible in evidence in any proceedings other than proceedings that concern the conduct of police officers and are dealt with by certain courts and tribunals. In considering the proper construction of “for the purposes of” in s 170, it is submitted that this should be construed as meaning at least a dominant purpose and arguably the sole purpose. It is to be expected that police will take statements from members of the public, in connection with a disciplinary inquiry, in circumstances where the statement was prepared for the dual purpose of the disciplinary inquiry and also future police investigations or operations. In that situation, it would be odd if s 170 prevented the police from using that statement in future court proceedings, merely because one of the purposes for which the statement was prepared was a disciplinary inquiry. This question was adverted to, but not decided, by Rothman J in *Clavel v Savage (No 3)* [2010] NSWSC 5 at [16].

¹⁰¹ *Special Commissions of Inquiry Act 1983* (NSW), s 9.

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67. It can be inferred from the face of the document that the statement of [1427] was prepared for a dual purpose, namely to set out evidence he would be prepared to give in court. [1427] said as much in the first paragraph of the statement. As such, use of the statement is permissible in this context.
68. It is noted that the maker of the statement is deceased. Further, the Commissioner of the NSWPF has twice been offered the opportunity to comment on the admissibility of the statement and has not raised an objection or sought to be heard against the above analysis.

Strike Force Parrabell

Use of the Bias Crimes Indicators Form

69. In the course of SF Parrabell, a Bias Crimes Indicators Review Form (**BCIF**) was completed in relation to the death of Mr Allen.¹⁰² Of the ten indicators considered, five were categorised as ‘Evidence of Bias Crime’, two were categorised as ‘Suspected Bias Crime’, two were categorised as ‘No Evidence of Bias Crime’, and one was categorised as ‘Insufficient Information’. The ‘Insufficient Information’ categorisation was in response to the indicator ‘Lack of Motive’, and noted that there were various potential motives, including robbery, and Mr Allen’s supply and sale of cannabis and amyl nitrate.¹⁰³
70. The BCIF indicates that Mr Allen was suspected to be a paedophile who grew and supplied cannabis, and that there are no persons of interest beyond the description of “[REDACTED]”, as given by Mr Allen to the passer-by, Mr Berwick, following his assault. The BCIF notes that Mr Allen apparently believed his assault to be motivated by LGBTIQ bias, as indicated by his comment “That’s what you expect when you do the beat”.¹⁰⁴

Results of Strike Force Parrabell

(a) The “Summary of Findings” box at the end of the BCIF

71. The Summary of Findings section at the conclusion of the BCIF states that Mr Allen died as a consequence of head injuries sustained on the night of 28 December 1988. It detailed his history as a school teacher and the likelihood that he was a paedophile and engaged in the production of pornographic child abuse material. The summary notes that Alexandria Park is a “well known ‘beat’” and that there are indications that an organised hate group was actively targeting gay men for assaults

¹⁰² Strike Force Parrabell Bias Crimes Indicators Review Form, 28 February 2017 (SCOI.45313).

¹⁰³ Strike Force Parrabell Bias Crimes Indicators Review Form, 28 February 2017, 1412 (SCOI.45313).

¹⁰⁴ Strike Force Parrabell Bias Crimes Indicators Review Form, 28 February 2017, 1406 (SCOI.45313).

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and robbery offences around the time of Mr Allen's death, including the death of Richard Johnson, the modus operandi of which "bears a resemblance" to the attack on Mr Allen.

72. SF Parrabell considered Mr Allen's death to have been a 'Suspected Bias Crime'.¹⁰⁵

73. SF Parrabell characterised 'Suspected Bias Crime' in this way:¹⁰⁶

"evidence/information exists that the incident may have been motivated by bias but the incident cannot be proven beyond a reasonable doubt that it was either wholly or partially motivated by bias and constitutes a criminal offence."

(b) Case Summary

74. The Strike Force Parrabell Case Summaries identify Mr Allen as a suspected paedophile who frequented the public toilets at Alexandria Park in search of "young male sexual partners". The full summary reads:¹⁰⁷

Identity: William Allen was 50 years old at the time of his death.

Personal History: Mr Allen was a retired school teacher and suspected paedophile. Evidence indicated that he was cultivating and dealing large amounts of cannabis which he would sell or give to young males for sex. Mr Allen was known to frequent the public toilets in Alexandria Park in search of young male sexual partners.

Location of Body/Circumstances of Death: Mr Allen's body was found at his home address in Newton Street, Alexandria. Mr Allen suffered several injuries to his head when assaulted the previous evening in Alexandria Park. Mr Allen was driven home by a passing motorist who saw blood over his face and hands. Mr Allen stated that he had been bashed by [REDACTED]. Mr Allen stated that he was bashed and kicked whilst on the ground, before being robbed of his money and keys. When told to report the matter to police, Mr Allen replied, 'That's what you expect when you do the beat.' Alexandria Park was a well-known gay beat. At the time police identified no clear suspects however circumstances surrounding the death of Mr Allen was noted to be similar to the later murder of Richard Johnson (Parrabell Case 40) in 1990. Both murders occurred at the same location in very similar circumstances. Police retrospectively investigated the 8 offenders from Mr Johnson's murder as fresh suspects for Mr Allen's murder however no evidence to implicate any of the 8 offenders was obtained.

Sexual Orientation: Mr Allen identified as gay.

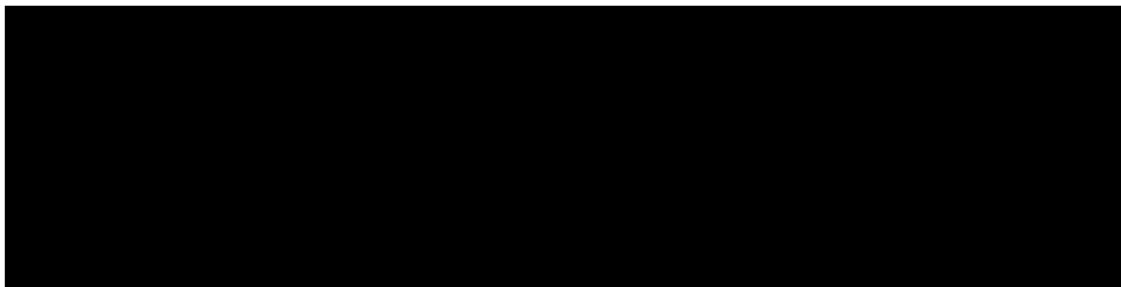
75. [REDACTED]

¹⁰⁵ Exhibit 6, Tab 49, Strike Force Parrabell Case Summaries, 15 (SCOI.76961.00014).

¹⁰⁶ Exhibit 1, Tab 2, Strike Force Parrabell – Final Report, June 2018, 68 (SCOI.02632).

¹⁰⁷ Exhibit 6, Tab 49, Strike Force Parrabell Case Summaries, 15 (SCOI.76961.00014).

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76. Indeed, the UHT assessment recommended that the investigation into Mr Allen’s death should proceed to review.¹⁰⁸ The triage form nominated a number of suspects arising from all the evidence, [REDACTED].¹⁰⁹ As submitted, it is not apparent why a review by the UHT did not occur, [REDACTED]

77. In all the circumstances, it is submitted that there was more than sufficient evidence for SF Parrabell to have characterised Mr Allen’s death as ‘*Evidence of bias crime*’,¹¹⁰ as opposed to giving it a weaker characterisation of ‘*Suspected evidence of bias crime*’ as it did, noting in particular Mr Allen’s sexuality, the location of his assault at a beat, the evidence that Mr Allen used beats in the area, Mr Allen’s contemporaneous report that he was assaulted for using the beat, [REDACTED]

(c) Academic review

78. The academic reviewers categorised Mr Allen’s death as ‘Gay Bias Related’.¹¹¹

Investigative and other steps undertaken by the Inquiry, and their outcomes

Attempts to locate and contact family members

79. The Inquiry located and wrote to Mr Allen’s brother. To date, no response has been received. The Inquiry also wrote to Mr Allen’s sister. To date, no response has been received.¹¹² The Inquiry successfully made contact with Mr Allen’s cousin and informed him of the work of the Inquiry on Mr Allen’s death. He was unable to assist with making contact with Mr Allen’s brother and did not otherwise wish to be involved.¹¹³

¹⁰⁸ Unsolved Homicide Team Triage Form, 24 August 2021, 12 (SCOI.03130).

¹⁰⁹ Unsolved Homicide Team Triage Form, 24 August 2021, 6-8 (SCOI.03130).

¹¹⁰ Exhibit 1, Tab 2, Strike Force Parrabell – Final Report, June 2018, 68 (SCOI.02632).

¹¹¹ Exhibit 6, Tab 49, Strike Force Parrabell Case Summaries, 15 (SCOI.76961.00014).

¹¹² Statement of Kathryn Lockery, 23 August 2023, [20] (SCOI.85150).

¹¹³ Statement of Kathryn Lockery, 23 August 2023, [22] (SCOI.85150).

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Request for coronial file

80. On 11 May 2022, the Inquiry issued a written request to the Registrar of the Coroners Court of NSW at Lidcombe to obtain the coronial file in relation to the death of Mr Allen. The coronial file was produced on 26 May 2022.¹¹⁴

Summonses issued

81. A summons to the NSWPF was issued on 18 May 2022 seeking, *inter alia*, the investigative file in relation to the death of Mr Allen (summons NSWPF1). A hardcopy file was produced on 8 June 2022.¹¹⁵

82. A further summons was issued to NSWPF on 28 July 2022 for the criminal history, CNI profile and other related documents in relation to Mr Allen (summons NSWPF5). Certain material was produced to the Inquiry on 24 August 2022, however the NSWPF were ultimately unable to locate any of the police notebooks or duty books sought pursuant to the summons.¹¹⁶ The NSWPF were also unable to locate the intelligence report referred to at point 3 of the schedule to the summons or the records relating to the police interaction with [REDACTED] at point 4 of the schedule.¹¹⁷

83. On 5 June 2023, the Inquiry issued summons NSWPF118 to NSWPF seeking the physical exhibits associated with the investigation into the death of William Allen, including wine carafes, a glass coffee jar, and hair and fingernail samples and an anal swab collected at post-mortem.¹¹⁸ On 13 June 2023, NSWPF wrote to the Inquiry to advise that none of the requested items could be located.¹¹⁹

84. On 7 June 2023, the Inquiry requested by letter that NSWPF provide a statement from an appropriate officer detailing the fingerprints collected from the scene of Mr Allen's death, the results of any analysis and whether any fingerprints remain unidentified. On 14 June 2023, NSWPF provided to the Inquiry an expert certificate by Karen Halbert, a Crime Scene Officer – Fingerprint Expert.¹²⁰ In this statement Ms Halbert confirmed that she had identified the fingerprints on the side of green glass wine carafe as belonging to Mr Allen. One print, found on the side of a glass coffee jar in the kitchen, yielded an inconclusive result.¹²¹

85. On 20 July 2023, the Inquiry issued a summons to Telstra for information as to Mr Allen's telephone number and records of public telephone boxes surrounding Alexandria Park as at the date of Mr Allen's

¹¹⁴ Statement of Kathryn Lockery, 23 August 2023, [5] (SCOI.85150).

¹¹⁵ Statement of Kathryn Lockery, 23 August 2023, [6] (SCOI.85150).

¹¹⁶ Email from the NSWPF to the Inquiry re summons NSWPF5, 26 August 2022 (SCOI.83987).

¹¹⁷ Letter to Inquiry from NSWPF re summons NSWPF5, 29 June 2023 (SCOI.85147).

¹¹⁸ Summons NSWPF118, 5 June 2023 (SCOI.83986).

¹¹⁹ Letter to Inquiry from NSWPF re summons NSWPF118, 13 June 2023 (SCOI.83985).

¹²⁰ Expert Certificate of Karen Halbert, Crime Scene Officer – Fingerprints, 15 June 2023 (NPL.0100.0020.0002).

¹²¹ Expert Certificate of Karen Halbert, Crime Scene Officer – Fingerprints, 15 June 2023, 3 (NPL.0100.0020.0002).

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death.¹²² In a document dated 3 August 2023, Telstra advised that no records were held for Mr Allen or his address as at December 1988, and that no details for payphones were available for the relevant date.¹²³

86. The Inquiry also issued a number of summonses to NSWPF, Corrective Services NSW, Youth Justice NSW and other relevant entities in order to obtain intelligence and background information regarding persons of interest.¹²⁴

Inter-agency cooperation

87. The Inquiry liaised with various government agencies in order to locate witnesses in relation to Mr Allen's death.

Statements taken

88. On 26 June 2023, Inquiry staff held a conference with Mr Harry Berwick.¹²⁵ A statement was taken. That statement is dated 28 June 2023.¹²⁶

Persons of interest as at 2022-2023

89. A series of private hearings and conferences were held in relation to Mr Allen's death with witnesses and persons of interest. The possible motivations for his death were canvassed at those hearings. That evidence will be the subject of a confidential part of the Report of the Inquiry in due course.

Submissions as to the evidence now available

90. This section of the submission sets out the key matters that arose in the course of the Inquiry's consideration of the evidence, and the conclusions that may be drawn in the light of that consideration.

Events of 27 - 29 December 1988

91. On 27 December 1988, Mr Allen was visited by his friend, Robert Dunn. Mr Dunn recalled that Mr Allen complained of being dizzy, and his skin was yellow in tone. He suffered from a nosebleed but declined to call an ambulance.¹²⁷
92. The next day, 28 December 1988, Mr Allen did not respond to knocks at his front door at 11:00am and later in the afternoon by David Oliver, a carpenter who had concluded renovations on Mr Allen's

¹²² Summons TEL2, 20 July 2023 (SCOI.85118).

¹²³ Records produced by Telstra re summons TEL2, 3 August 2023 (SCOI.85117).

¹²⁴ Statement of Kathryn Lockery, 23 August 2023, [12] (SCOI.85150).

¹²⁵ Statement of Kathryn Lockery, 23 August 2023, [23] (SCOI.85150).

¹²⁶ Supplementary statement of Harry Berwick, 28 June 2023 (SCOI.84270).

¹²⁷ Statement of Robert Joseph Dunn, 16 January 1989, 2 (SCOI.10329.00053).

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property and was seeking payment.¹²⁸ Around 7:00pm, Mr Allen was observed on his front porch, appearing intoxicated but happy, and exchanged pleasantries with his neighbours, Edward Jackson and Patricia Wright.¹²⁹

93. Mr Oliver returned at around 8:00pm, but there was no answer to his knock on Mr Allen's front door, though the hallway light was on, and his car was parked in front of the property. Mr Oliver called Mr Allen repeatedly until around 11:00pm that night, but received no response.¹³⁰
94. At around 10:00pm, Harry Berwick was driving on Park Road which borders Alexandria Park, and observed Mr Allen standing in the road waving and signalling to Mr Berwick. Mr Berwick stopped his vehicle and Mr Allen came to the passenger side, and shouted "I've been bashed". Mr Allen's face and hands were covered in blood and his nose was bleeding. Mr Berwick smelled alcohol on Mr Allen's breath, but noted Mr Allen was lucid in his speech, and "did not appear to be outraged by the incident".¹³¹
95. Mr Allen asked for assistance and Mr Berwick agreed. Mr Berwick asked who had assaulted Mr Allen, and Mr Allen replied, [REDACTED]. They bashed me and kicked me whilst I was on the ground, the bastards, and they took my money and keys". Mr Berwick repeatedly suggested that Mr Allen contact police, but Mr Allen replied: "That's what you expect when you do the beat". Mr Berwick understood this to be a reference to Mr Allen being a gay man, and an indication that he regularly attended Alexandria Park, which was "known to be frequented by homosexuals".¹³² Mr Berwick drove Mr Allen to his home and Mr Allen said, "I'll have to get a spare set of keys and go back to get my car". Mr Berwick then drove away.¹³³
96. Mr Berwick had noted that there was a small light-coloured sedan car parked near the toilet block at Alexandria Park.¹³⁴
97. In his recent statement provided to the Inquiry of 28 June 2023, Mr Berwick said that Mr Allen also told him that he had written his phone number on the toilet block wall. He said this as part of the conversation where he said, "that's what you get when you do the beat". Mr Berwick told the Inquiry that writing your phone number on the wall of the toilet block was a common practice by men living

¹²⁸ Statement of David James Oliver, 2 January 1989, 1 (SCOI.10327.00008).

¹²⁹ Statement of Eric Edward Jackson, 30 December 1988 (SCOI.10327.00006); Statement of Patricia Alice Wright, 30 December 1988, [6] (SCOI.10327.00004).

¹³⁰ Statement of David James Oliver, 2 January 1989, 1 (SCOI.10327.00008).

¹³¹ Statement of Harry Berwick, 11 January 1989, 1 (SCOI.10329.00052).

¹³² Statement of Harry Berwick, 11 January 1989, 1 (SCOI.10329.00052).

¹³³ Statement of Harry Berwick, 11 January 1989, 1 (SCOI.10329.00052).

¹³⁴ Statement of Harry Berwick, 11 January 1989, 2 (SCOI.10329.00052).

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alone and wanting to meet men at the beat. Mr Berwick had the distinct impression that Mr Allen was at the beat by arrangement, rather than by chance.¹³⁵

98. The other aspect of Mr Berwick's statement to the Inquiry that bears noting is that when Mr Allen said he had been "bashed" by [REDACTED] he had the distinct impression that there were "three boys" involved in the assault.¹³⁶
99. Later that night, at around 12:30am on 29 December 1988, Ordinance Inspectors Peter Martin and Wayne Murphy observed a small silver car parked opposite the toilets at Alexandria Park. There was blood on the driver's door, a trail of blood leading to the toilets and a large amount of blood and a set of keys in the middle of the roadway.¹³⁷
100. A few minutes later, Mr Allen pulled up driving a white station wagon. He remained seated in the station wagon, and so Mr Martin approached. Mr Allen had blood around his mouth and a swollen lip, but did not, to Mr Martin's eye, appear to be seriously injured. He advised Mr Martin that it was his blood and keys on the road, and that "two or three kids have bashed me so I went and got a friends car" [sic]. Mr Martin recommended that Mr Allen report the assault to the police, and Mr Allen replied, "Yeah I will, I'd just dropped into these toilets for a squirt when the kids got me". Mr Allen indicated that he had been able to hold on to his money, but that his attackers "kicked me when I was on the ground". Mr Allen drove the silver car home.¹³⁸
101. Later, at 7:45am and 12:10pm on 29 December 1988, Mr Oliver attended Mr Allen's home again, but received no answer at the door. On the second occasion, he spoke to Mr Allen's neighbour, Robert Gannon.¹³⁹ Mr Gannon spoke to Mr Sigsworth, who entered Mr Allen's garden and observed the back door to be wide open. Mr Sigsworth called out and received no reply, but heard water running and looked through the bathroom window. Mr Sigsworth observed Mr Allen slumped over the side of the bathtub with the bath tap running, and blood at the bottom of the bath. Mr Sigsworth then went to his home and called the police.¹⁴⁰

Alexandria Park

102. In addition to the observations made above at [44] about Alexandria Park as a beat in the late 1980s, Mr Berwick gave the Inquiry some pertinent details about how the beat operated. In 1988, Mr Berwick

¹³⁵ Supplementary statement of Harry Berwick, 28 June 2023, [7] (SCOI.84270).

¹³⁶ Supplementary statement of Harry Berwick, 28 June 2023, [7] (SCOI.84270).

¹³⁷ Statement of Peter Thomas Martin, 11 January 1989, [3] (SCOI.10329.00051).

¹³⁸ Statement of Peter Thomas Martin, 11 January 1989, [4]-[5] (SCOI.10329.00051).

¹³⁹ Statement of David James Oliver, 2 January 1989, 1-2 (SCOI.10327.00008).

¹⁴⁰ Statement of Ronald Sigsworth, 3 January 1989 (SCOI.10327.00005).

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lived nearby Alexandria Park [REDACTED]

[REDACTED].¹⁴¹ He says it was well known by people living in the area that the toilets at Alexandria Park were a beat. He describes the beat as being “very open”. There were no paths to walk along like some other beats, or areas that were more private. If men wanted to have sex, they often sat in their car on Park Road and watched who arrived. If the person went into the toilet block and was there for a while, it suggested they were there to use the beat. If a man was attracted to the person who had entered the toilet block, they followed the person into the toilet block for sexual activity.¹⁴²

103. Mr Berwick recalls that the lighting around the toilet block and the park was poor. This was part of the reason why the beat was not busy at night. His impression was that the beat was used by local men, unlike the beats around the beaches which people travelled to visit.¹⁴³
104. At this time, that is, the late 1980s, Mr Berwick recounts that bashings were happening all the time at different beats. The bashings were often not reported as gay men did not trust the police. According to Mr Berwick, the police believed that men who used the beat ‘deserved what they got’.¹⁴⁴
105. It is submitted that this is a good illustration of the way in which a lack of cultural awareness or cultural sensitivity can lead to members of a community being less forthcoming with information relevant to the detection and prevention of crimes.

Police investigations

106. As already submitted in detail above at [44]-[45] the possibility that Mr Allen had his phone number in the toilet block at Alexandria Park is of particular significance and the failure by police during the original investigation to enquire as to whether Mr Allen’s number was on the wall was a significant oversight.
107. Separately, and as already mentioned above at [48]-[49], the failure of officers to properly seize and secure relevant exhibits (child abuse material and marijuana), and also to make reasoned and informed judgments as to the importance of such evidence, meant that potential lines of enquiry into the death of Mr Allen were also not pursued.

¹⁴¹ Supplementary statement of Harry Berwick, 28 June 2023, [19] (SCOI.84270).

¹⁴² Supplementary statement of Harry Berwick, 28 June 2023, [15]-[16] (SCOI.84270).

¹⁴³ Supplementary statement of Harry Berwick, 28 June 2023, [17]-[18] (SCOI.84270).

¹⁴⁴ Supplementary statement of Harry Berwick, 28 June 2023, [20] (SCOI.84270).

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Submission as to manner and cause of death

108. It is submitted that the coronial finding as to the manner and cause of Mr Allen's death remains appropriate. Mr Allen died on 29 December 1988 "of the effects of head injuries sustained on the night of 28 December 1988 when he was beaten by persons unknown in Alexandria Park."¹⁴⁵
109. The question of manner and cause will also be addressed in confidential submissions in order to avoid prejudice to possible future investigations.

Submission as to bias

110. There is reason to suspect that Mr Allen met his death as a consequence of an assault motivated by LGBTIQ bias.
111. One possible circumstance is that Mr Allen was assaulted by a group of people while he was attending Alexandria Park to use the toilet block as a beat. If so, there would be strong reason to suspect that the assault was motivated by LGBTIQ bias.
112. Another possibility is that Mr Allen met his death as a consequence of his suspected involvement in the sexual abuse of young boys and production of child abuse material. If this was the motivation, it would not exclude LGBTIQ bias, bearing in mind that some offenders, wrongly, conflate homosexuality with paedophilia. As noted above, this conflation is offensive and has caused substantial harm to the queer community. Such a conflation, in the mind of an offender, will still be a crime involving "gay hate bias".¹⁴⁶ [REDACTED]
[REDACTED]
[REDACTED]
113. Mr Allen's dealings in drugs apparently resulted in his possession of a large amount of cash, which was kept in his home.¹⁴⁷ There was no evidence, however that anything was stolen from Mr Allen's home after the attack on him nor that this was the motivation for the assault on him.
114. It is possible that Mr Allen carried a quantity of cash on his person or in his car, and that he may have been assaulted and robbed as a result. However, there is conflicting evidence as to whether Mr Allen was robbed during his attack. Mr Allen advised Peter Martin that he had been able to keep hold of his money during his assault,¹⁴⁸ however Mr Berwick recalled that Mr Allen advised that his assailants

¹⁴⁵ Form 2 – Coronial Findings, 4 July 1989 (SCOI.00003.00001).

¹⁴⁶ See Written Submissions of Counsel Assisting – Public Hearing 2, 7 June 2023, [1249]-[1253] (SCOI.84380).

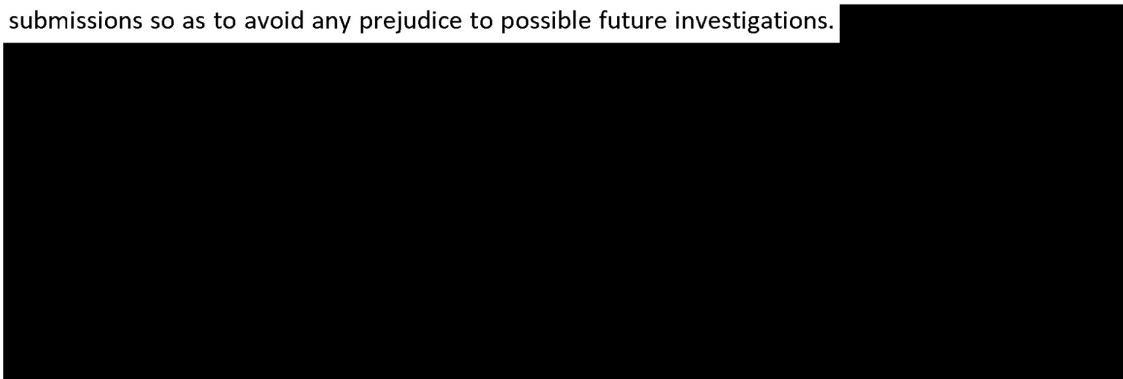
¹⁴⁷ Strike Force Parrabell Bias Crimes Indicators Review Form, 28 February 2017, 1407 (SCOI.45313).

¹⁴⁸ Statement of Peter Thomas Martin, 11 January 1989, [5] (SCOI.10329.00051).

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“took my money and keys”.¹⁴⁹ The suggestion that Mr Allen’s keys were taken is inconsistent with Mr Martin having found them on the road.

115. More will be said about the various motivations behind Mr Allen’s fatal attack in confidential submissions so as to avoid any prejudice to possible future investigations.



Submission as to recommendations

116. Counsel Assisting do not seek any specific recommendations in these written submissions.

James Emmett SC
Senior Counsel Assisting

Christine Melis
Counsel Assisting

¹⁴⁹ Statement of Harry John Berwick, 11 January 1989, 1 (SCOI.10329.00052).