



Special Commission of Inquiry into LGBTIQ hate crimes

24 April 2023

Dr Danny Sullivan
 Consultant Forensic Psychiatrist
 PO Box 1060
 NORTH MELBOURNE VIC 3051

By email: [REDACTED]

Dear Dr Sullivan,

Special Commission of Inquiry into LGBTIQ hate crimes: expert report in relation to the death of Ernest Head

As you are aware, I assist the Honourable Justice John Sackar in the Special Commission of Inquiry into LGBTIQ hate crimes ("the Inquiry").

The Inquiry

By way of background, on 13 April 2022 the Governor of NSW, by Letters Patent, issued a commission to his Honour to inquire into and report on historical LGBTIQ hate crimes. Specifically, the Letters Patent require his Honour to inquire into and report to the Governor and Premier on the following matters by 30 June 2023:

- A. The manner and cause of death in all cases that remain unsolved from the 88 deaths or suspected deaths of men potentially motivated by gay hate bias that were considered by Strike Force Parrabell; and
- B. The manner and cause of death in all unsolved suspected hate crime deaths in New South Wales that occurred between 1970 and 2010 where:
 - i. The victim was a member of the lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) community; and
 - ii. The death was the subject of a previous investigation by the NSW Police Force.

Request for expert opinion

By this letter, you are briefed to prepare an expert report for the Inquiry in relation to death of Ernest Head from the perspective of a forensic psychiatrist addressing certain matters identified below.

I would be grateful if you could provide your report by **Thursday, 11 May 2023**. If you anticipate any difficulties with this timeframe, please let me know as soon as possible.

In addition to providing your report, you may be required to give oral evidence at any hearing in relation to Mr Head's death. If you are required to give oral evidence, I will notify you as soon as practicable to discuss suitable arrangements.

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Assumptions

In preparing your report, you are requested to assume the facts set out in the below summary. Additionally, please have regard to any other relevant information contained in the briefing materials provided to you.

1. Ernest Head (born [REDACTED] 1932) was found dead at his home at [REDACTED]/49 Grosvenor Crescent, Summer Hill on 22 June 1976.
2. Mr Head was last seen alive on 17 June 1976 by his friend [REDACTED] 1454 when they met for a drink. The time of death estimated post-mortem was consistent with Mr Head having died on that date. [REDACTED] 1454 discovered Mr Head's body on 22 June 1976, when he attended Mr Head's home to enquire after Mr Head's welfare.
3. Mr Head was a gay man and had previously been in a three year relationship with [REDACTED] 1454 with whom he had resided. A diary was found in his unit with the names of a number of people, all of whom were gay men who previously had contact with Mr Head.
4. Mr Head had disclosed his sexuality to his brother, Arthur Head. However, a colleague and friend, Margaret McEvoy, stated that she did not know whether he was gay.
5. Mr Head was described by his brother, Arthur Head, as "quiet", "slightly withdrawn" and "normally... a good-natured type of person." However, Arthur Head also commented that Mr Head could become more sensitive and aggressive after consuming alcohol.
6. Mr Head had a gambling habit and consequently often had financial difficulties. He was in debt from the purchase of his unit and had a loan from his credit union at work.
7. Mr Head's home was on the third floor of a large apartment building within walking distance of Summer Hill Railway Station. Two keys were required to access Mr Head's apartment, and there was no sign of forced entry.
8. Mr Head had been stabbed 35 times to the chest, face, back and abdomen, as well as to the left leg, arm and buttock. His injuries are as described in the autopsy report of Dr Oettle dated 17 August 1976 (**Tab 1**).
9. Mr Head's body was found in the kitchen, naked, lying face down. A pair of men's underpants were on the floor beside Mr Head's head.
10. Semen was present on penile and anal swabs taken from Mr Head, as well as on a handkerchief found at the scene.
11. A crime scene examination revealed a large number of blood smears and splashes in the kitchen, lounge room, dining room, hallway and main bedroom, as described in the statement of Senior Constable Munday dated 26 September 1976 (**Tab 7**).
12. In the dining room, an HMV gramophone was still rotating and the stylus had worn a deep groove into the record. Blood smears were located on the knobs of the radiogram.
13. There was human vomit in the toilet.
14. There are reports of calls for help issuing from Mr Head's apartment on 17 June 1976, with Mr Head apparently saying words to the effect of "help me" and "please don't hurt me". A second male voice was also heard.
15. After hearing these calls for help, a neighbour, Donald Humphreys, had an interaction with a person he believed to be Mr Head, in which Mr Head said words to the effect of "everything's alright would you go away". This interaction is as described in his statement dated 23 June 1976 (**Tab 12**).

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Mr Humphreys also heard a conversation in “quiet tones” between two men within the apartment through Mr Head’s front door.

16. Police identified that property had been stolen from the unit, including a watch, television, cassette recorder, transistor, gold dress ring, two pieces of jade, and a suitcase.

Material with which you are briefed

For the purpose of preparing your report, you are briefed with the materials in the **enclosed** index. The material contained in the index has been extracted from the NSWPF investigation file and the court file from the Coroners Court of NSW.

Please note that the briefing materials contain sensitive images. The relevant tabs of your briefing material have been marked with an asterisk on the index.

If there is any additional material that you consider would be of use to you in forming your opinion, please contact Ms Lilly and this material will be provided to you (if available).

Matters to be addressed in your report

I would be grateful if you could address the following matters in your report, having regard to the material with which you are briefed and to the extent that they are matters which fall within your expertise:

1. Whether there are any aspects of the manner of death (including the nature and extent of the injuries inflicted) and/or crime scene which may indicate that a homicide has occurred in the context of LGBTIQ hate/prejudice/bias (hereafter collectively referred to as “hate”);
2. The possible motivation/s of the unidentified perpetrator of Mr Head’s injuries, to the extent that this can be discerned from the available evidence. In answering this question, please consider any relevant concepts including (but not limited to) notions of masculinity, male honour, internalised homophobia, medicalised stigma, conflating homophobia with paedophilia, perceptions of the characteristics of LGBTIQ persons, and particular psychopathologies;
3. Aspects of victimology that may be relevant to Mr Head’s death;
4. Any recommendations for further investigations with respect to determining the manner and cause of the person’s death; and
5. Any other matters you wish to raise within your expertise that may be of assistance to the Inquiry.

Subject to your discretion, the Inquiry requires only a succinct analysis of the above matters and does not anticipate that your report need exceed three pages. However, you should not feel constrained to this page guidance if you consider a longer report necessary or appropriate.

In the event that you are called to give evidence before the Inquiry, either as to general matters in connection with LGBTIQ hate crimes or particular cases, it may be necessary for the Inquiry to disclose to interested parties any correspondence or conference notes with you.

Expert Witness Code of Conduct

I **enclose** a copy of the Expert Code of Conduct with which expert witnesses in Supreme Court proceedings in NSW are typically required to comply. While the present inquiry is not a Court proceeding, I would be grateful if you would read the Code of Conduct and agree to be bound by it. I suggest the following form of words be included in the body of your report in due course:

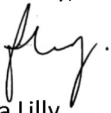
“I, Dr Danny Sullivan, acknowledge that I have read the Expert Witness Code of Conduct in Schedule 7 to the Uniform Civil Procedure Rules 2005 (NSW) and agree to be bound by it.”

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Thank you for your consideration and assistance.

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

Yours faithfully,



Francesca Lilly

Solicitor

Solicitor Assisting the Inquiry

Encl. (2)

Uniform Civil Procedure Rules 2005

Current version for 11 November 2022 to date (accessed 20 December 2022 at 08:53)

Schedule 7

Schedule 7 Expert witness code of conduct

(Rule 31.23)

1 Application of code

This code of conduct applies to any expert witness engaged or appointed—

- (a) to provide an expert's report for use as evidence in proceedings or proposed proceedings, or
- (b) to give opinion evidence in proceedings or proposed proceedings.

2 General duties to the Court

An expert witness is not an advocate for a party and has a paramount duty, overriding any duty to the party to the proceedings or other person retaining the expert witness, to assist the court impartially on matters relevant to the area of expertise of the witness.

3 Content of report

Every report prepared by an expert witness for use in court must clearly state the opinion or opinions of the expert and must state, specify or provide—

- (a) the name and address of the expert, and
- (b) an acknowledgement that the expert has read this code and agrees to be bound by it, and
- (c) the qualifications of the expert to prepare the report, and
- (d) the assumptions and material facts on which each opinion expressed in the report is based (a letter of instructions may be annexed), and
- (e) the reasons for and any literature or other materials utilised in support of each such opinion, and
- (f) (if applicable) that a particular question, issue or matter falls outside the expert's field of expertise, and
- (g) any examinations, tests or other investigations on which the expert has relied, identifying the person who carried them out and that person's qualifications, and
- (h) the extent to which any opinion which the expert has expressed involves the acceptance of another person's opinion, the identification of that other person and the opinion expressed by that other person, and
- (i) a declaration that the expert has made all the inquiries which the expert believes are desirable and appropriate (save for any matters identified explicitly in the report), and that no matters of significance which the expert regards as relevant have, to the knowledge of the expert, been withheld from the court, and

- (j) any qualification of an opinion expressed in the report without which the report is or may be incomplete or inaccurate, and
- (k) whether any opinion expressed in the report is not a concluded opinion because of insufficient research or insufficient data or for any other reason, and
- (l) where the report is lengthy or complex, a brief summary of the report at the beginning of the report.

4 Supplementary report following change of opinion

- (1) Where an expert witness has provided to a party (or that party's legal representative) a report for use in court, and the expert thereafter changes his or her opinion on a material matter, the expert must forthwith provide to the party (or that party's legal representative) a supplementary report which must state, specify or provide the information referred to in clause 3(a), (d), (e), (g), (h), (i), (j), (k) and (l), and if applicable, clause 3(f).
- (2) In any subsequent report (whether prepared in accordance with subclause (1) or not), the expert may refer to material contained in the earlier report without repeating it.

5 Duty to comply with the court's directions

If directed to do so by the court, an expert witness must—

- (a) confer with any other expert witness, and
- (b) provide the court with a joint report specifying (as the case requires) matters agreed and matters not agreed and the reasons for the experts not agreeing, and
- (c) abide in a timely way by any direction of the court.

6 Conferences of experts

Each expert witness must—

- (a) exercise his or her independent judgment in relation to every conference in which the expert participates pursuant to a direction of the court and in relation to each report thereafter provided, and must not act on any instruction or request to withhold or avoid agreement, and
- (b) endeavour to reach agreement with the other expert witness (or witnesses) on any issue in dispute between them, or failing agreement, endeavour to identify and clarify the basis of disagreement on the issues which are in dispute.



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Index of Brief to Dr Sullivan – Ernest Head

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Tab	Document	Date	SCOI Ref
Forensic Material			
1.	Autopsy report	17 August 1976	SCOI.11039.00031-2
2.	Crime scene and autopsy photographs [sensitive]	Undated	SCOI.10948.00020
3.	Autopsy photographs [sensitive]	Undated	SCOI.11039.00087
4.	Further crime scene and autopsy photographs [sensitive]	Undated	SCOI.10948.00023
5.	Scale plan of apartment	Undated	SCOI.11039.00096
Police Investigation			
6.	P79A Report of Death to the Coroner	23 June 1976	SCOI.11039.00002
7.	Statement of Senior Constable Robert Henry Munday	26 September 1976	SCOI.11039.00099
8.	Statement of Detective Sergeant Albert McDonald	14 November 1977	SCOI.11039.00021
9.	Special Circular No 76/22, "Alleged Murder and Theft of Property"	14 November 1977	SCOI.11039.00023
Witness Statements			
10.	Statement of Arthur Maurice Head	24 June 1976	SCOI.10957.00025
11.	Statement of [redacted] 1454	23 June 1976	SCOI.11039.00117
12.	Statement of Donald Humphreys	23 June 1976	SCOI.11039.00105
13.	Statement of Elaine Walsh	23 June 1976	SCOI.11039.00107
14.	Statement of Lillian Dreves	Undated	SCOI.11039.00113
15.	Statement of Margaret McEvoy	23 June 1976	SCOI.11039.00038
16.	Statement of Sydney Moore	23 June 1976	SCOI.11039.00101
Coronial Findings			
17.	Coronial Findings	16 December 1977	SCOI.11039.00008