



New South Wales

Special Commission of Inquiry into LGBTIQ hate crimes

Statement of Francesca Lilly

10 October 2023

This statement made by me accurately sets out the evidence that I would be prepared, if necessary to give to the Special Commission of Inquiry into LGBTIQ hate crimes (“the Inquiry”) as a witness. This statement has been prepared from my own knowledge and also from perusing the records of the Inquiry. The statement is true to the best of my knowledge and belief.

1. My name is Francesca Lilly. My address is known to the Special Commission of Inquiry.
2. I am employed as a Senior Solicitor by the Special Commission of Inquiry into LGBTIQ hate crimes.
3. In the course of my duties, I have reviewed and conducted inquiries in relation to the death of Ernest Head, who died on 17 June 1976 at Summer Hill, NSW. The information contained in this statement is true based on my own knowledge, and from documents in the possession of the Inquiry relevant to Mr Head.

Request for coronial file

4. On 22 July 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 Head.
5. On 26 August 2022, Lidcombe Coroners Court provided Mr Head’s coronial file to the Inquiry.

Summons for police files and documents

6. On 21 July 2022, a summons to the NSW Police Force (**NSWPF**) was issued for, *inter alia*, the investigative file in relation to the death of Mr Head held by NSWPF and any other material held by the Unsolved Homicide Team in relation to Mr Head’s death (summons NSWPF3). A folder of material in relation to Mr Head was produced on 9 August 2022.
7. Further material responsive to summons NSWPF3 was identified by NSWPF and produced in hardcopy on 23 June 2023.
8. On 5 September 2023, the Inquiry issued summons NSWPF179 seeking the full fingerprint file in relation to the death of Mr Head. On 7 September 2023, NSWPF advised by letter that the fingerprint file had been produced on 23 June 2023. On 11 September 2023, I wrote to NSWPF by email seeking clarification that the material produced on 23 June 2023 was the full fingerprint file.
9. On 13 September 2023, NSWPF wrote to the Inquiry to advise that a further 52 documents had been located in a room that was “not ordinarily used to store historical cold case files”, and had been “identified by an employee of the DNA Management Unit when undertaking a separate

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search unrelated to the Inquiry”. These documents were produced to the Inquiry electronically, and contained, *inter alia*, elimination prints collected in the course of the original investigation.

10. A review of the documents produced by NSWPF revealed that the original police investigation had been comprehensive, including, *inter alia*, the following steps:
- a. canvassing the residents of Mr Head’s building and neighbouring buildings;
 - b. canvassing locations where Mr Head was seen or known to frequent, including bars, hotels, and local shops;
 - c. canvassing known “homosexual” locations (e.g. the Petersham beat);
 - d. obtaining names of any person treated for lacerations at local hospitals in the relevant period;
 - e. making enquires with pawn shops for Mr Head’s property;
 - f. making enquiries with dry cleaners in relation to any bloodstained clothes that may have been received;
 - g. interviewing almost all persons whose names or contact details were found in Mr Head’s diary, wallet or calendar;
 - h. interviewing a large number of Mr Head’s known associates, including friends and work colleagues;
 - i. requesting through Interpol for the police in Penang to interview the family of Mr Head;
 - j. publishing a pamphlet with Mr Head’s photograph, and canvassing and distributing flyers in the local area;
 - k. inquiring as to other patrons using the TAB at around the same time as Mr Head;
 - l. inquiring with taxi operators to ascertain if there were any phone booking at the relevant time;
 - m. ascertaining if there were any links between Mr Head’s death and the murders of other gay men in similar circumstances;
 - n. canvassing local distributors of the types of cigarette’s found in the ashtray at Mr Head’s home; and
 - o. proclaiming a \$10,000 reward for information.

Attempts to locate family

11. The Inquiry sought inter-agency cooperation to locate Mr Head’s family, however they have to date not able to be traced.
12. The Inquiry attempted to locate [REDACTED] and [REDACTED], the friend and goddaughter of Ernest Head, respectively, through interagency cooperation, however this was not possible in the absence of dates of birth.
13. On 14 February 2023, the Inquiry issued summons BDM12 to the Registry of Births, Deaths and Marriages (BDM) seeking, *inter alia*, a death certificate for Arthur Head. The Inquiry obtained a

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death certificate for Arthur Head in response to summons BDM12 on 17 February 2023, confirming Arthur Head had died in 2003.

14. On 16 May 2023, the Inquiry issued summons SC05 to the Supreme Court of NSW seeking the Letters of Administration and Grant of Probate to identify the beneficiaries of the will of Arthur Head. This material was produced on 22 May 2023. A number of family members were identified as beneficiaries, however it was unclear which, if any, were also related to Ernest Head. Most relatives listed in the will of Arthur Head resided overseas. The Inquiry made attempts to trace these individuals, however, once again, in the absence of any dates of birth this was not possible.
15. On 2 June 2023, through interagency cooperation, the Inquiry obtained information that one niece of Arthur Head, listed as a beneficiary in his will, was residing in Australia. The Inquiry wrote to this relative on 14 June 2023 and again on 26 September 2023. No response has been received by the Inquiry to date. I attempted to contact this relative by telephone on various occasions in August, September and October 2023, but was unable to make contact.

Attempts to locate witnesses

16. On 13 April 2023, the Inquiry issued a summons to BDM (summons BDM22) for, *inter alia*, a death certificate for [1454]. On 17 April 2023, a certificate was produced by BDM indicating that no trace of death could be found in relation to [1454].
17. On 2 May 2023, the Inquiry sought interagency cooperation to locate [1454], Donald Humphreys, Elaine Walsh and Lilian Dreves.
18. Mr Humphreys was last recorded as alive in 2021, however given the fulsome account of events provided by Mr Humphreys to NSWPF, it was not considered that further interviews of Mr Humphreys would be of utility to the Inquiry. No information was able to be obtained regarding Ms Walsh or Ms Dreves.
19. Interagency cooperation revealed that [1454] was recorded under the name [1454] [1454] in NSWPF holdings.
20. On 15 May 2023, the Inquiry issued a summons to NSWPF (NSWPF105) seeking intelligence holdings in relation to [1454]. On 23 May 2023, NSWPF produced material in response to this summons.
21. On 16 May 2023, the Inquiry issued summons SC05 to the Supreme Court of NSW seeking the Letters of Administration and Grant of Probate to identify the beneficiaries of Mr Head's will. On 22 May 2023, the Supreme Court produced the documents, which revealed that [1454] was the beneficiary of Mr Head's estate.
22. On 5 April 2023, the Inquiry issued summons BDM22 seeking information in relation to [1454] [1454]. No trace of death was found.
23. On 22 September 2023, the Inquiry issued summons BDM56 seeking information in relation to Margaret McEvoy. On 26 September 2023, BDM advised that no trace of death was found.

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Professional opinions obtained

24. By letter dated 24 April 2023, the Inquiry briefed forensic psychologist Dr Danny Sullivan to provide an expert report regarding the psychology of Mr Head's killer, and whether Mr Head's death may be the consequence of an LGBTIQ bias crime. The Inquiry obtained an expert report by Dr Sullivan on 15 May 2023, which is included in the tender bundle.

Conversations with Barry Charles

25. On 21 September 2023, I spoke via telephone with Barry Charles. Mr Charles gave evidence to the Inquiry in the 'Context Hearings' regarding his experiences as a gay man, including his use of beats.
26. Mr Charles indicated that the Oxford Hotel/ Tavern primarily catered to the straight community in the 1970s-1980s.
27. Mr Charles advised that the Bank Hotel and the Summer Hill TAB were not popular venues amongst the LGBTIQ community in the 1970s or 1980s.
28. However, on 22 September 2023, Mr Charles advised by email that the Hub Theatre on Bedford Street, which was located diagonally across the intersection from the Bank Hotel, was a popular location for sex between men, many of whom may not have identified as gay or bisexual. Further, the old Council Chambers next door to the Hub Theatre had a public toilet which was a beat. Mr Charles believed this venue had been a beat for some decades when he visited in the 1980s.

Forensic material

29. On 30 March 2023, the Inquiry requested that the Forensic and Analytical Science Service (**FASS**) retrieve its case file in relation to Mr Head. On 3 May 2023, the Inquiry conferenced with representatives from FASS regarding the possibilities for forensic testing had the exhibits in relation to Mr Head's death been available for analysis, and any testing that could be undertaken in relation to the exhibits that were available.
30. In relation to the available testing, Michele Franco and David Bruce of FASS advised at this meeting that examinations to search for DNA could be carried out on the cigarette butts, however noted that the cigarette paper, which has contact with the mouth of the smoker and therefore is the best repository of saliva DNA, had disintegrated, reducing the prospects of obtaining a useful result.
31. On 12 May 2023, the Inquiry wrote to FASS to request that further testing be carried out on the cigarette butts. On 30 May 2023, the Inquiry received an expert certificate from Dr David Bruce detailing the testing that would have been possible had the exhibits not been lost.
32. On 25 September 2023, Dr Bruce provided a statement setting out the results of the DNA testing of the exhibits. On 27 September 2023, I spoke to Dr Bruce via telephone to seek clarification regarding the testing conducted. Dr Bruce produced a further statement containing this additional information that same day.

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Fingerprint testing

33. On 24 April 2023, the Inquiry wrote to NSWPF requesting further analysis be conducted on the palmprint and fingerprints located at the scene of Mr Head's death.
34. On 30 May 2023, NSWPF provided to the Inquiry the First Expert Certificate of Kate Reid, Senior Crime Scene Officer and Fingerprint Expert, which confirmed a match for the palmprint in blood located on the kitchen wall above Mr Head's body with Engin Simsek.
35. On 14 June 2023, the Inquiry wrote to NSWPF seeking clarifications regarding the past analysis that had been conducted on the finger and palmprints located at the crime scene, noting Mr Simsek's prints had been on file since 1986.
36. On 20 June 2023, the Second Expert Certificate of Kate Reid was provided to the Inquiry, outlining the advances in fingerprint analysis technology which had enabled the match to be made.
37. On 13 September 2023, the Inquiry wrote again to NSWPF seeking further information regarding the processes of fingerprint analysis, and capabilities for automatic testing once prints were uploaded to the NAFIS.
38. On 19 September 2023, the Inquiry received from NSWPF the Third Expert Certificate of Kate Reid, explaining why the limits on earlier fingerprint matching technology meant that Mr Simsek was not identified during earlier reviews of the fingerprint file.

Engin Simsek

39. Upon receiving the First Expert Certificate of Kate Reid, the Inquiry issued summons NSWPF116 to NSWPF, and CSNSW19 to Corrective Services on 1 June 2023 seeking intelligence regarding Mr Simsek. I reviewed the documents provided, a selection of which are included in the tender bundle.
40. On 1 June 2023 a summons was also issued to BDM (BDM38) seeking birth, death, marriage and change of name certificates in relation to Mr Simsek. No records were located.
41. The Inquiry obtained a copy of Mr Simsek's arrival card dated 20 May 1972 from the online National Archives of Australia on 29 June 2023.
42. On 16 June 2023, the Inquiry issued summons NSWPF128 to NSWPF seeking intelligence in relation to a number of Mr Simsek's relatives. Various documents including CNI Profiles and Criminal Histories were produced.
43. On 27 June 2023, summonses were issued to interstate Registries of Births, Deaths and Marriages (summonses VBDM4, ACTBDM04, NTBDM3, QBDM7, SABDM3, TBDM3 and WBDM6) seeking information in relation to Mr Simsek and his relatives identified as residing in Australia.

Grosvenor Crescent

44. On 27 July 2023, the Inquiry issued summons RBB01 to the Rental Bonds Board of NSW seeking information as to the address recorded on Mr Simsek's arrival card. On 1 August 2023, the Rental Bonds Board advised the Inquiry that no records were held.

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45. On 9 August 2023, through interagency cooperation, the Inquiry requested a Land Title Search be conducted in relation to this address. On 16 August 2023, the Inquiry was advised of the persons who owned the property, however these individuals were not found to have a connection to Mr Simsek.

Private hearing with [REDACTED] 1450

46. On 5 July 2023, the Inquiry held a private hearing with [REDACTED] 1450, the son of Mr Simsek's [REDACTED] 1450 advised the Inquiry, *inter alia*, that Mr Simsek had returned to Türkiye in the 1990s and had subsequently died in Türkiye. He also told the Inquiry that other family members of Mr Simsek's generation, who were likely to have more information about Mr Simsek, were now deceased.
47. [REDACTED] 1450 advised the Inquiry that he had read a newspaper article regarding the death of Mr Simsek by suicide. He indicated that he was not in possession of a copy of that article.

Death of Engin Simsek

48. On 30 June 2023, the Inquiry wrote to the Australian Embassy in Ankara seeking assistance in locating Mr Simsek. On 4 July 2023, the Embassy advised that it was not able to assist unless a formal request for mutual legal assistance was made via the Attorney-General's Department.
49. On 21 July 2023, the Inquiry requested the assistance of the media officer at the Australian Embassy in Ankara in obtaining a copy of a newspaper article regarding Mr Simsek's death. The Embassy advised on 21 July 2023 that searches had been conducted but no information was able to be located.
50. The Inquiry sought assistance from contacts in international media to locate the newspaper article, however no article was able to be found.
51. On 29 August 2023, [REDACTED] 1450 provided via email a photograph of a Turkish language newspaper article dated 8 May 1999 relating to Mr Simsek's death. The Inquiry obtained a NAATI certified translation, which is included in the tender bundle with the photograph provided by [REDACTED] 1450.
52. On 15 August 2023, the Inquiry wrote to NSWPF requesting that it assist the Inquiry by making a request for assistance from the Turkish government, via Interpol, in obtaining a death certificate for Mr Simsek. The NSWPF confirmed that it was willing to assist, and that it had made the request via Interpol on 22 August 2023.
53. On 28 August 2023, the Inquiry obtained a copy of a Turkish language newspaper article regarding the death of Mr Simsek by suicide in 1999. A copy of the certified translation of this article is included in the tender bundle. Mr Simsek's relative confirmed that the person whose photograph was featured in the newspaper article was Mr Simsek.
54. The article was provided to NSWPF to assist with the searches being conducted via Interpol. As at the date of this statement, no response has yet been received from the Turkish government (via Interpol).

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55. On 6 October 2023, the Inquiry received correspondence from NSWPF confirming that the Turkish authorities had confirmed Mr Simsek died on 6 May 1999.

Signature:

Name: Francesca Lilly

Date: 10 October 2023