

**2022 Special Commission of Inquiry  
into LGBTIQ hate crimes**

**Before: The Commissioner,  
The Honourable Justice John Sackar**

**At Level 2, 121 Macquarie Street,  
Sydney, New South Wales**

**On Tuesday, 22 August 2023 at 10am**

**(Day 83)**

<b>Ms Meg O'Brien</b>	<b>(Counsel Assisting)</b>
<b>Mr Rhys Carvosso</b>	<b>(Senior Solicitor)</b>
<b>Mr Enzo Camporeale</b>	<b>(Director Legal)</b>

**Also Present:**

**Mr Anders Mykkeltvedt for the NSW Police**

1 THE COMMISSIONER: Yes.

2

3 MS M O'BRIEN: Commissioner, I appear to assist you,  
4 instructed by Mr Carvosso, and I have been previously  
5 instructed in this matter by Ms Jacqueline Krynda, who has  
6 provided invaluable assistance in preparing this matter for  
7 hearing today.

8

9 THE COMMISSIONER: Thank you.

10

11 MR A MYKKELTVEDT: May it please, Commissioner, I appear  
12 for the Commissioner of Police.

13

14 THE COMMISSIONER: Thank you, Mr Mykkeltvedt. Yes.

15

16 MS O'BRIEN: Commissioner, these submissions concern the  
17 death of Crispin Wilson Dye. I have a number of documents  
18 to hand up. The first is the tender bundle in this case,  
19 which consists of four volumes, the second is a copy of  
20 Counsel Assisting's written submissions, and the third is  
21 some short minutes of order with respect to non-publication  
22 orders in this matter.

23

24 THE COMMISSIONER: Thank you.

25

26 MS O'BRIEN: I understand those orders are by consent,  
27 Commissioner.

28

29 MR MYKKELTVEDT: They are agreed, Commissioner.

30

31 THE COMMISSIONER: Thank you.

32

33 MS O'BRIEN: Commissioner, as a consequence of those  
34 non-publication orders, I will be referring to a number of  
35 people in these submissions by a pseudonym, but I will  
36 indicate where I'm going to do so.

37

38 Crispin Dye was born on 1 June 1952. If he were alive  
39 today, he would have recently turned 71. The Inquiry has  
40 a photo of Mr Dye, with his guitar, that will be brought up  
41 on screen now.

42

43 As might be apparent from that photograph, Mr Dye was  
44 a musician. He was frequently playing music or singing,  
45 often at many different venues around Sydney. He was also  
46 the former manager of the Australian rock band AC/DC and  
47 had also previously worked with the bands The Easybeats and

1 Rose Tattoo.

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Shortly before his death, Mr Dye had released his debut solo album called "A Heart Like Mine", using the stage name Cris Kemp. Kemp was his mother's maiden name. The Inquiry has a copy of the cover of that album, which I will bring up on the screen shortly.

Evidence before the Inquiry suggests that Mr Dye told one of his friends that he didn't use his real name because he thought that if someone found out he was gay, they wouldn't buy his music. Sadly, all the members of Mr Dye's immediate family are now deceased. However, members of his extended family are still alive and have been in contact with the Inquiry.

Mr Dye also had a wide circle of friends. Some of Mr Dye's family and friends are either in court today or are watching online. In the course of the Inquiry's investigation, Mr Dye's family and friends have shared their memories of Mr Dye. We are grateful to them for sharing those memories, and it is readily apparent that Mr Dye was, and remains, a treasured person to many.

Commissioner, Mr Dye died on 25 December 1993, or Christmas Day, when he was 41 years old.

The circumstances of his death, insofar as they are known to the Inquiry, were as follows. Mr Dye had come down to Sydney from Cairns, where he was living at the time, to be with his family and friends over the Christmas period. He had arrived in Sydney from Cairns on 13 December 1993.

On 22 December 1993, he had plans to spend the night socialising with his friends. Between 6 and 7pm that night, Mr Dye attended the Bellevue Hotel in Paddington, where he met a friend and former colleague for dinner and a few drinks.

At around 8.10 to 8.30pm, Mr Dye and that same friend went to the Paddington Inn on Oxford Street in Paddington, where they met up with some more friends and acquaintances. At the Paddington Inn, Mr Dye consumed a number of drinks. Mr Dye was observed to have had coffee, two schooners of beer, a glass of Champagne and a glass of water.

1           At around 10pm, Mr Dye left the Paddington Inn alone  
2 and went to Gilligan's, a bar above the Oxford Hotel, which  
3 was on the corner of Oxford Street and Bourke Street in  
4 Darlinghurst. At around 10.30pm, the group from the  
5 Paddington Inn joined Mr Dye at Gilligan's. Mr Dye was  
6 observed talking to various men at the bar and was seen  
7 consuming beer and wine, as well as iced water between  
8 alcoholic drinks. He also went downstairs to the Oxford  
9 Tavern, which was a known gay bar.

10  
11           At around 1am on the morning of 23 December 1993,  
12 Mr Dye's friends left Gilligan's to go to the Courthouse  
13 Hotel on Oxford Street, directly opposite Gilligan's.  
14 Mr Dye remained behind at the Oxford Hotel, where he was  
15 seen to have a black or brown leather wallet on him with  
16 money in it, Country Road glasses and various CDs.

17  
18           At around 2.15am that same morning, Mr Dye met up with  
19 another two friends outside the Oxford Hotel. When these  
20 friends saw Mr Dye outside the hotel, one of them observed  
21 that he was staggering and very intoxicated, nonetheless  
22 said that he was in a very happy mood. Mr Dye then went  
23 with those friends to the Flinders Hotel in Flinders  
24 Street, Darlinghurst to play pool. Once at the Flinders  
25 Hotel, Mr Dye consumed more beer.

26  
27           At around 3am, when his friends went to leave the  
28 Flinders Hotel, they couldn't find Mr Dye. The bartender  
29 at the Flinders Hotel recalled that Mr Dye had been at the  
30 Flinders Hotel for around 10 to 15 minutes. The bartender  
31 recalled that he was well affected by alcohol and talking  
32 loudly. He had the impression that Mr Dye was looking for  
33 male company in the hotel, although the bartender did not  
34 see him speak to anyone.

35  
36           The bartender saw Mr Dye leave the Flinders Hotel at  
37 around 2.45am, turning left out the front door into  
38 Flinders Street, with his friends leaving about 10 minutes  
39 later. The same bartender, who remained in the vicinity,  
40 later saw Mr Dye walking across Oxford Street towards the  
41 opposite street corner. He observed that Mr Dye was  
42 walking normally, although he was obviously intoxicated and  
43 was talking to himself.

44  
45           At around 4am that morning, Mr Dye went to the  
46 Courthouse Hotel and attempted to purchase a drink, but he  
47 was refused service due to his level of intoxication.

1 Mr Dye then exited the hotel, turning left into Oxford  
2 Street.

3  
4 At about 4.30am, a person called Owen Read, a resident  
5 of Surry Hills, came upon Mr Dye lying on his stomach on  
6 the road in Little Oxford Street. He bent down and touched  
7 him and heard him grunt. He couldn't see his face or any  
8 blood. Mr Read then went to check on his friend further up  
9 the laneway but couldn't find him, and by the time he had  
10 walked back to Mr Dye and spoken to the police, who had  
11 arrived at the scene at that time, the police and  
12 paramedics were already in attendance.

13  
14 At around 4.35am, meanwhile, a person called Scott  
15 Neilson was driving to work and had stopped at a traffic  
16 light at the intersection of Campbell Street and Bourke  
17 Street, when he saw three men on the northern side of  
18 Campbell Street near the intersection with Little Oxford  
19 Street. He described them, and I quote, as "Islanders".  
20 Mr Neilson said that these men were standing around what  
21 appeared to be a large object which was lying on the  
22 ground, and they were picking it up and moving it around.

23  
24 As Mr Neilson drove away from the lights, going west  
25 along Campbell Street, he saw three men grab something from  
26 the object and then run west along Campbell Street on the  
27 northern side of the footpath.

28  
29 As Mr Neilson continued to drive, he realised that the  
30 large object was in fact a man lying face down in the  
31 street. Mr Neilson then attempted to look for a police  
32 station. He drove down Campbell Street and turned north  
33 into Crown Street and observed the three men run west into  
34 Goulburn Street. Mr Neilson then turned into Oxford Street  
35 and again observed the three men, this time walking in  
36 a westerly direction along the southern footpath of Oxford  
37 Street. He then continued past them and reported the  
38 incident at Surry Hills Police Station.

39  
40 Commissioner, there is an annexure to Counsel  
41 Assisting's written submissions noted as annexure A, which  
42 contains a map of the area where Mr Dye was found. I would  
43 be grateful if that could be brought up on the screen.

44  
45 Commissioner, number 5 on that map identifies the area  
46 where Mr Dye was found, and the other numbers represent the  
47 venues that he had visited before he was assaulted.

1 Number 1 is the Oxford Hotel. Number 2, down on Flinders  
2 Street, is the Flinders Hotel. The Courthouse Hotel is  
3 number 4 in that annexure.  
4

5 Commissioner, when he was found, Mr Dye was alive but  
6 in cardiac arrest. He was blue, unconscious, was not  
7 breathing and had no cardiac output. He had abrasions to  
8 his face, blood coming from his nose and a swollen left  
9 eye. He was treated by paramedics at the scene and was  
10 then transported to St Vincent's Hospital at 5.07am that  
11 morning.  
12

13 Police observed coins in the area where Mr Dye was  
14 found, and it was subsequently discovered his wallet was  
15 missing. Upon arrival at St Vincent's Hospital, Mr Dye was  
16 observed to have sustained a massive head and brain injury  
17 and was in cardiac arrest. He required cardiac  
18 resuscitation, intubation and ventilation.  
19

20 At around 1.30pm on 23 December 1993, so later that  
21 same day, Mr Dye was transferred to St George Hospital in  
22 Kogarah, but his condition deteriorated, and eventually  
23 life support was ceased on 25 December 1993.  
24

25 Commissioner, a post-mortem examination was carried  
26 out by Dr Liliana Schwartz on 27 December 1993, and  
27 a report was subsequently prepared for the Coroner. The  
28 report that was prepared for the Coroner describes various  
29 fractures sustained by Mr Dye to his head and neck and  
30 various other minor injuries to his limbs, including  
31 bruises, scratches and abrasions. An examination of  
32 Mr Dye's brain revealed that he had suffered extensive  
33 internal injuries.  
34

35 Dr Schwartz concluded that the direct cause of  
36 Mr Dye's death was a head injury.  
37

38 Later, in 1997, the police asked Dr Schwartz to  
39 prepare a further report on the likely cause of Mr Dye's  
40 injuries. Dr Schwartz concluded that Mr Dye was hit at  
41 least three times on the face and the left side of the head  
42 by a blunt object. An inquest into Mr Dye's death was held  
43 on 7 and 8 August 1995 at the Coroners Court of New South  
44 Wales before the State Coroner at the time, his Honour  
45 Derrick Hand.  
46

47 On 8 August 1995, State Coroner Hand found that Mr Dye

1 died of the effects of a head injury inflicted on  
2 23 December 1993 in Campbell Street, Darlinghurst by  
3 a person or persons unknown.  
4

5 Commissioner, I will now briefly outline what occurred  
6 in relation to the initial investigation by the NSW Police  
7 into Mr Dye's death. I will note that further details  
8 about the initial investigation are contained in Counsel  
9 Assisting's written submissions, and these oral submissions  
10 about the initial investigation are more by way of broad  
11 summary.  
12

13 In the immediate aftermath of the attack on Mr Dye,  
14 the police patrolled the area surrounding Campbell Street  
15 and Little Oxford Street in an attempt to locate the three  
16 men who Mr Neilson had seen standing over Mr Dye. Police  
17 examined the crime scene, took a number of photographs and  
18 collected some exhibits.  
19

20 Police also attended St Vincent's Hospital and took  
21 photographs of Mr Dye. A blood sample was also taken from  
22 him. Police took possession of Mr Dye's clothing,  
23 including blue denim jeans, a brown belt, a denim shirt,  
24 a pair of maroon shoes, a pair of maroon socks and a white  
25 T-shirt.  
26

27 The Inquiry is in possession of a photograph of those  
28 items, and I would be grateful if that could be brought up  
29 on the screen. Now, Commissioner, on the screen, on the  
30 left, at least, you can see a photo of the jeans that  
31 Mr Dye was wearing at the time he was assaulted; his  
32 T-shirt is on the right of that picture there. If I could  
33 just scroll down somewhat, his blue denim shirt that he was  
34 wearing can be seen in that picture, together with his  
35 maroon shoes and maroon socks.  
36

37 It is not readily apparent, Commissioner, but that  
38 shirt has a pocket on the left-hand side, the significance  
39 of which I will get to in a moment.  
40

41 I think there is one further picture. Thank you.  
42 That's just a clearer picture of the T-shirt that Mr Dye  
43 was wearing underneath that shirt. There is obviously  
44 a degree of bloodstaining on those items there.  
45

46 Now, Commissioner, these items of clothing were  
47 examined at the time by DSC Lyle Van Leeuwen of the Crime

1 Scene Unit of the NSW Police. He made some visual  
2 observations about those items, including that they were  
3 stained with blood and that the jeans, in fact, were soiled  
4 with faeces.

5  
6 I will come back to those items in due course, because  
7 for the Inquiry's purposes they have assumed some degree of  
8 significance, but for the time being, while we are  
9 discussing the investigation, I will continue with what  
10 happened in the immediate aftermath of Mr Dye's death.

11  
12 On 29 December 1993, so four days after Mr Dye had  
13 died, a strike force was established. It was named Strike  
14 Force Barcoo. The purpose of the strike force was to  
15 investigate Mr Dye's death.

16  
17 Now, in the weeks following Mr Dye's death, a number  
18 of witnesses told police about various unidentified males  
19 and possible suspects seen either on the morning of  
20 Mr Dye's death or in the days previously. These included  
21 various witnesses who had seen a group of three young men  
22 together that morning and one of whom was himself attacked  
23 and robbed on the same morning that Mr Dye was attacked.  
24 These attacks are described at paragraph 225 of Counsel  
25 Assisting's written submissions.

26  
27 Various identikit images were created by these  
28 eyewitnesses, and they were later published in the media.  
29 Numerous calls were received from members of the public  
30 nominating various suspects.

31  
32 Also in this period, Commissioner, various items  
33 belonging to Mr Dye resurfaced. On 9 January 1994, Brenton  
34 Dye, Mr Dye's brother, found a letter at Mr Dye's home in  
35 Cairns, indicating that Mr Dye's wallet had been located in  
36 a garbage bin in Cairns and was at Cairns Police Station.  
37 However, this wallet appears to have been a wallet that had  
38 been lost by Mr Dye, or it had been stolen from him, prior  
39 to his trip to Sydney in Christmas 1993 and had not been  
40 recovered prior to Mr Dye travelling to Sydney. I will  
41 refer to this wallet, Commissioner, as the "first wallet".

42  
43 On 21 January 1994, Brenton Dye again went to Mr Dye's  
44 home in Cairns and, on this occasion, located a package in  
45 the mailbox, which had been sent from Sydney. The package  
46 contained a number of cards that would ordinarily be found  
47 in a wallet, such as a Frequent Flyer card.

1  
2 After inquiries were made, it transpired that those  
3 items had been handed in to the offices of Ansett Australia  
4 in Surry Hills on 23 December 1993, and the package had  
5 been posted back to Mr Dye's address in Cairns by a staff  
6 member of that office. These items were sent to the police  
7 for fingerprint examination, but no results were returned.  
8

9 A number of weeks later, on 14 February 1994,  
10 a solicitor was approached in his office at the Inner City  
11 Legal Centre on Oxford Street in Darlinghurst by a man who  
12 refused to divulge his identity. That man produced  
13 a wallet, which I will refer to as the "second wallet",  
14 which he said had been taken by him by mistake at a nearby  
15 McDonald's. This wallet contained Mr Dye's ATM card, along  
16 with various other items apparently not connected with  
17 Mr Dye, such as a passport in a name that is known to the  
18 Inquiry, but I will refer to that name as "MB", and items  
19 belonging to a third person, who I will refer to as "FA".  
20

21 It appears that at least to some extent, the police  
22 tried to obtain fingerprints from the contents of the  
23 second wallet. However, in response to the Inquiry's  
24 request for these records, the police have confirmed they  
25 cannot find the results of that fingerprint testing.  
26

27 What is apparent, however, is that an investigation  
28 was conducted into the person known as MB, but it failed to  
29 lead anywhere and he was ultimately not investigated any  
30 further. It appears that the police concluded that the  
31 second wallet was most likely the wallet of MB.  
32

33 It seems, Commissioner, that the wallet that Mr Dye  
34 was actually carrying on the night he was assaulted was  
35 never recovered. Brenton Dye told the police that he  
36 believed Mr Dye would have been carrying a black Artex  
37 branded wallet, because he had purchased such a wallet for  
38 Mr Dye the prior Christmas, so Christmas 1992. In January,  
39 Mr Dye's mother, Jean, accompanied police to purchase  
40 a replica of this wallet, which I will call the "third  
41 wallet".  
42

43 Commissioner, I note that among the material produced  
44 to this Inquiry by the police in response to a summons was  
45 a physical wallet. That wallet, however, was unmarked and  
46 it is not clear whether that wallet was the first, second  
47 or third wallet, or indeed some other wallet.

1  
2 Commissioner, I won't say anything more for the time  
3 being about the various wallets involved in this matter,  
4 but I will point out that due to the way in which records  
5 have been kept in this case, it has taken considerable  
6 effort by Inquiry staff to work out the role that each of  
7 the three wallets has played in this case, and more detail  
8 about that process is contained in the written submissions.  
9

10 Commissioner, during the initial investigation stage,  
11 the police investigated two persons of interest. One of  
12 these persons of interest was a person I will refer to as  
13 "JF".  
14

15 JF was nominated by several people as being similar to  
16 the identikit images created by an eyewitness. He was  
17 interviewed by police on a number of occasions and at least  
18 initially admitted to witnessing the assault on Mr Dye.  
19 However, JF later said that he was not present in Sydney on  
20 23 December 1993 and what he had been talking about to  
21 police was a completely different incident. JF's family  
22 and friends provided an assortment of suggested alibis.  
23 However, several of these alibis were inconsistent with  
24 each other.  
25

26 JF was questioned at the inquest into Mr Dye's death  
27 and gave evidence that the version of events he had  
28 initially provided to police was false. He stated that he  
29 had supplied false information because he was scared.  
30 However, at the conclusion of the inquest, State Coroner  
31 Hand commented that JF's alibi, and I quote, "had more  
32 holes in it than a sieve" and that the alibis that were  
33 coming up for him were, and I quote again, "unbelievable".  
34 Nonetheless, the State Coroner also concluded there was  
35 insufficient evidence to tie him to the murder of Mr Dye.  
36

37 The other person of interest in this case is someone  
38 I will refer to as "DJ". In May 1994, police received  
39 information that DJ and his associate MJB, which is also  
40 a pseudonym, may have knowledge about the attack on Mr Dye.  
41 Other associates of DJ claimed that he had told them that  
42 he had been involved in assaulting and robbing homosexual  
43 men. However, DJ refused to speak to police and was  
44 ultimately not questioned about the murder of Mr Dye.  
45

46 DS Geoffrey Knight, who was the OIC of the original  
47 investigation, ultimately concluded that while DJ bore some

1 physical similarities to the individuals described by  
2 witnesses in connection with the attack on Mr Dye, there  
3 was insufficient evidence to substantiate that DJ or MJB  
4 may have been involved in the murder.

5  
6 Ultimately, however, Commissioner, these early  
7 investigative leads went nowhere, and after the inquest  
8 into Mr Dye's death in 1995, Strike Force Barcoo was  
9 deactivated.

10  
11 Nonetheless, Commissioner, in January 1996, police  
12 received information related to the possible involvement of  
13 a person called Richard Leonard in the death of Mr Dye. At  
14 this time, Mr Leonard was already on remand for two  
15 murders, of which he was later convicted.

16  
17 In sentencing Mr Leonard for one of these murders,  
18 Justice Badgery-Parker found Mr Leonard had been motivated  
19 by anti-LGBTIQ bias. Mr Leonard had admitted to killing  
20 a man by hitting him on the back of the head with  
21 a telescopic baton that he carried around with him. He  
22 stated that he struck a man several times to the back and  
23 side of the head before the man fell to his hands and knees  
24 and started screaming. Mr Leonard believed someone was  
25 coming, so he left the scene at that time. Mr Leonard  
26 later read about the murder of Mr Dye in the newspapers  
27 some days later and believed that he was the man he had  
28 assaulted.

29  
30 On 20 January 1999, as a result of this information,  
31 Strike Force Barcoo was reactivated to continue the  
32 investigation into Mr Dye's murder, with a view to charging  
33 Mr Leonard and the man who allegedly accompanied him, who  
34 I will refer to as "SM".

35  
36 However, considerable doubt was thrown on the  
37 suggestion that Mr Leonard was in fact involved when SM  
38 provided an account of events potentially inconsistent with  
39 Mr Leonard's admission. His description of the location of  
40 the attack and the appearance of the victim did not match  
41 the attack on Mr Dye.

42  
43 Furthermore, although the police subsequently obtained  
44 evidence that it was possible that Mr Dye would have been  
45 able to move up to 500 metres after being assaulted, there  
46 were no blood trails to indicate that Mr Dye was assaulted  
47 anywhere other than where he was found.

1  
2           Ultimately, as part of the reinvestigation, a review  
3 was undertaken and a victim was identified who had been  
4 assaulted in Darlington on 27 December 1993, and the  
5 circumstances of this assault were such that the police  
6 considered it more likely that Mr Leonard was the assailant  
7 in that case rather than in the case of Mr Dye. As  
8 a result of that discovery, Commissioner, on 8 February  
9 2001, the DPP advised the police that no charges should be  
10 laid. At that point, all investigations into the death of  
11 Mr Dye appear to have ceased.

12  
13           Since that time, Commissioner, Mr Dye's case has been  
14 the subject of what is called a review by the Unsolved  
15 Homicide Team in 2005, and it was also subject to what was  
16 called a triage by the Unsolved Homicide Team in 2019.  
17 However, there has never been a reinvestigation of this  
18 case over that time period and as a result of those  
19 processes by the police.

20  
21           Both the review and the triage gave rise to  
22 recommendations, but, Commissioner, none of the  
23 recommendations made in either 2005 or 2019 were  
24 implemented, except for the reissuing of the reward for  
25 information, which occurred in 2014.

26  
27           So, for example, Commissioner, the Unsolved Homicide  
28 Team review in 2005 recommended that forensic testing be  
29 done on the remaining exhibits. As I will explain shortly,  
30 this was never done. The fact that this was never done  
31 following either the 2005 review or the 2019 triage is  
32 particularly curious, given the 2019 triage concluded that:

33  
34           *There appears to be an opportunity for*  
35           *a forensic review to be conducted.*

36  
37           Likewise, the 2005 review and the 2019 triage recommended  
38 the creation of a timeline or another sort of analysis of  
39 all the similar events occurring in the Oxford Street area  
40 in the months leading up to and after Mr Dye's murder.  
41 This was also never done.

42  
43           The significance of these failures, Commissioner, will  
44 become apparent to you over the course of these  
45 submissions.

46  
47           Commissioner, I would now like to take the opportunity

1 to address you on the police investigation in this case,  
2 and specifically on some key opportunities that were missed  
3 by the police.  
4

5 The first of these is the fact that not all relevant  
6 exhibits were tested for fingerprints or sent for forensic  
7 analysis. In particular, the failure of the NSW Police to  
8 arrange for the testing of Mr Dye's clothing at the time of  
9 the original investigation or at any time thereafter is of  
10 particular concern, especially in light of the fact that  
11 the examination of these items by the Forensic & Analytical  
12 Science Service, who I will call "FASS", at the behest of  
13 the Inquiry in 2023 has revealed that the DNA profile  
14 obtained from Mr Dye's clothing has matched another DNA  
15 profile recovered from a crime scene in 2002. I will  
16 address that matter in due course.  
17

18 As to fingerprinting, Commissioner, the 2005 Unsolved  
19 Homicide Team review indicates that the health care card  
20 and the Frequent Flyer card were fingerprinted in 1994,  
21 with a negative result. The items in what I was calling  
22 the second wallet were sent for fingerprinting in 1994, but  
23 no result was either obtained or recorded, or, if it was at  
24 some stage obtained, it hasn't been retained to the present  
25 day.  
26

27 All of those items are described in the 2005 Unsolved  
28 Homicide Team review, as in the items that were in the  
29 wallet and were subject to fingerprinting, as "unable to be  
30 located", and the Inquiry understands that that is still in  
31 fact the case.  
32

33 Moreover, a set of keys was recorded as being found on  
34 Mr Dye's person. A NSW Police running sheet notes that  
35 Brenton Dye attended the Surry Hills Police Station to  
36 collect those keys. There is no mention of the keys in the  
37 statements of the investigating officers, and the keys were  
38 evidently not tested for fingerprints before being  
39 returned.  
40

41 Secondly, Commissioner, the NSW Police's scrutiny of  
42 exhibits from the crime scene was, in my submission,  
43 strikingly deficient. In its own examination of the  
44 exhibits that have been retained by the NSW Police, the  
45 Inquiry has located two pieces of paper, which were folded  
46 inside the left-hand pocket of Mr Dye's shirt. One of  
47 these pieces of paper was a yellow Post-It Note - I would

1 be grateful if that was brought up on the screen - and it  
2 contained a handwritten name and phone number on it. The  
3 name you will see there, Commissioner, appears to be the  
4 name, and in fact was, Garry Hook.

5  
6 The Inquiry located Mr Hook, who was recorded as  
7 living in an address in Earlwood which matched the phone  
8 number contained on the Post-It Note there, and in March  
9 2023 Mr Hook provided evidence to the Inquiry about his  
10 friendship with Mr Dye and the likely explanation for how  
11 the Post-It Note with his name on it was found in Mr Dye's  
12 pocket.

13  
14 Mr Hook confirmed that he had never been contacted by  
15 the police, and he told the Inquiry that he was not aware  
16 of the existence of this Post-It Note with his name and  
17 number on it until March 2023, when it was shown to him by  
18 Inquiry staff.

19  
20 The other piece of paper contained in Mr Dye's pocket,  
21 which I will also bring up on the screen shortly,  
22 Commissioner, was a white piece of cardboard, which  
23 contained a small brown mark on it. You will see that on  
24 the screen now. That mark was confirmed to be  
25 a bloodstain.

26  
27 Now, examinations were carried out in 2023 at the  
28 request of the Inquiry to determine whether this bloodstain  
29 mark was a fingerprint or a partial fingerprint.  
30 Commissioner, it is clear to the Inquiry that these pieces  
31 of paper had never previously been found or noticed. As  
32 I have already said, they were found in the top-left front  
33 pocket of Mr Dye's shirt, and they were never separately  
34 catalogued. The police have also confirmed by  
35 correspondence to the Inquiry that they have no information  
36 about these papers.

37  
38 It is submitted, Commissioner, that the failure to  
39 find these pieces of paper is extraordinary, given that by  
40 their own account, DSC Van Leeuwen from the Crime Scene  
41 Unit examined Mr Dye's clothing on 23 December 1993, and  
42 also two other police officers separately examined these  
43 items that same day. The failure to find these items is  
44 also extraordinary, given that there were further police  
45 investigations of this case in 1996 and 1999, and this case  
46 has been twice reconsidered by the Unsolved Homicide Team.

47

1           Throughout this time, so for a period of 30 years, the  
2 exhibits do not appear to have been properly examined.

3  
4           Furthermore, Commissioner, and perhaps equally  
5 extraordinarily, the papers that were found by the police -  
6 and there were some that were found - were not retained.  
7 A photocopy of the papers that were found was contained in  
8 the Coroners Court file, but the police have now confirmed  
9 to the Inquiry that those papers cannot now be located -  
10 the originals of those papers I'm talking about,  
11 Commissioner.

12  
13           In addition to that, the Inquiry has also established  
14 that at the time of his death, there was also yet another  
15 different piece of paper on Mr Dye's person.

16  
17           That further piece of paper, it is now apparent, was  
18 a note written by a person by the name of Alexander Paige.  
19 Mr Paige has told the Inquiry that a few days before  
20 Christmas in 1993, he attended the Bodyline Sauna on Taylor  
21 Street in Darlington at some time between 11.30pm and  
22 12.30am, where he met a man named Cris. Cris said he lived  
23 outside of Cairns and was visiting Sydney for Christmas.  
24 Cris asked for Mr Paige's phone number, and as Mr Paige was  
25 staying with his parents over Christmas, Mr Paige gave him  
26 a piece of paper with the writing "Alex" and "(parents)" on  
27 it, together with his parents' home phone number.

28  
29           Mr Paige said that on Christmas Eve, the police  
30 telephoned his parents' phone number and left a number for  
31 him to call them back on, and he rang the number later that  
32 day. A police officer told him they were trying to locate  
33 the family of a man they believed to be Crispin Dye and  
34 that Mr Dye had been found with the note that Mr Paige had  
35 given him.

36  
37           Mr Paige explained that he had met Mr Dye when out  
38 drinking in Darlington some time earlier. That,  
39 Commissioner, was Mr Paige's only contact with police in  
40 relation to Mr Dye's death.

41  
42           The Inquiry has searched all the files provided by the  
43 police and the Coroners Court in relation to Mr Dye's  
44 death, and no original or copy of the note has been  
45 produced. However, this note is referred to in the  
46 notebook of the original OIC, which makes it clear that at  
47 some stage, at least, it did exist and it was noted.

1  
2           What is particularly troubling about this,  
3 Commissioner, is that the pieces of paper found by the  
4 Inquiry in Mr Dye's shirt pocket and the other pieces of  
5 paper that would have been in his pocket may have been  
6 a source of fingerprints or DNA, which, in turn, may have  
7 provided the police with information about Mr Dye's  
8 assailant or assailants.

9  
10           As I've previously submitted, Mr Dye was observed on  
11 the ground at one stage, surrounded by three people who  
12 were seemingly robbing him. It would seem likely that in  
13 order to do so, they were going through his pockets. The  
14 failure of the NSW Police to inspect Mr Dye's pockets  
15 carefully and/or retain any papers they found is, obviously  
16 enough, a cause for concern.

17  
18           Thirdly, the recording and management by the police of  
19 the exhibits which they did locate is a further cause for  
20 concern. The NSW Police did not catalogue some items as  
21 exhibits, such as the keys and the papers found on Mr Dye  
22 or any of the wallets; and other items which were  
23 catalogued as exhibits, such as the health care card and  
24 Frequent Flyer card, appear to have now been lost. Yet,  
25 and nonetheless, in the list of exhibits that were retained  
26 by the police, there was an extendible baton.

27  
28           On 3 February 2023, the NSW Police told the Inquiry  
29 that this baton was "seized at some point during the course  
30 of the original investigation, possibly as a suspected  
31 murder weapon". However, the Inquiry subsequently found  
32 a record of a baton of the make in question having been  
33 purchased by the NSW Police to allow Dr Schwartz to prepare  
34 a subsequent report in 1997 in relation to whether that was  
35 the type of baton that could have caused Mr Dye's injuries.

36  
37           On 17 March 2023, after reviewing its own records, the  
38 NSW Police agreed that it was likely that the baton had  
39 been mislabeled as an exhibit and had been purchased by the  
40 police at a later time and in fact was not seized as  
41 a suspected murder weapon.

42  
43           In oral evidence given to this Inquiry on 5 July,  
44 Detective Inspector Warren from the NSW Police accepted  
45 that it was not consistent with proper police practice at  
46 the time for the extendible baton to have been stored and  
47 classified as a potential murder weapon.

1  
2 Fourth, and finally, Commissioner, police do not  
3 appear to have followed up at least two pieces of  
4 significant information received by them in late 1993 and  
5 early 1994. I won't go into the details of what those  
6 items of information are, because I have largely already  
7 covered them and they are contained in Counsel Assisting's  
8 written submissions, but the failure to do so, to follow up  
9 what Counsel Assisting submits is important information,  
10 indicates a somewhat desultory or at least what we would  
11 submit is a less than rigorous approach to the initial  
12 investigation into Mr Dye's death.  
13

14 Commissioner, the next matter I wish to address you on  
15 is the steps taken by the Inquiry in relation to Mr Dye's  
16 case and the outcomes of those particular steps.  
17

18 The investigative steps taken by the Inquiry are set  
19 out in paragraphs 92 to 182 of Counsel Assisting's written  
20 submissions. I don't intend to address you on all of these  
21 steps, Commissioner. However, there are two steps that are  
22 of particular significance that I would like to make  
23 submissions about this morning.  
24

25 The first of these steps relates to the production of  
26 documents by the NSW Police. On 18 May 2022, so last year,  
27 after this Inquiry had commenced, a summons was issued to  
28 the NSW Police for all documents relating to the  
29 investigation by the police into the death of Mr Dye. Nine  
30 boxes of material, in response to this summons, were  
31 produced on 8 June 2022. However, on 19 June 2023, so this  
32 year and the day before the documentary tender hearing in  
33 relation to this case was originally scheduled to take  
34 place, the police produced a further 261 pages of material.  
35

36 At the time this additional material was produced, the  
37 NSW Police informed the Inquiry that the additional  
38 material would be likely to be documents that had already  
39 been produced to the Inquiry. However, when this  
40 additional material was reviewed by Inquiry staff, it  
41 immediately became apparent that this material contained  
42 documents of considerable significance to the Inquiry's  
43 Terms of Reference which had not previously been produced.  
44

45 They included, Commissioner, a witness statement  
46 provided to the police in September 2014 by a witness named  
47 Janet O'Meara, who was not previously known to the Inquiry.

1 In her statement, Ms O'Meara said she resided at the  
2 [REDACTED] in 1995 with three women named Kerrie, NP253 and  
3 Sharon. She recalled that in around February or March  
4 1995, she was in the dining room [REDACTED] with Kerrie and  
5 NP253, when they began to discuss the murder of Mr Dye, at  
6 which point NP253 said, "I know who did that." Ms O'Meara  
7 described NP253 as being in her late 20s or early 30s, with  
8 two young children, whom she named. Ms O'Meara's statement  
9 also attached a colour Polaroid photograph of herself with  
10 NP253 and Sharon taken around that time.

11  
12 Nothing in the material produced to the Inquiry by the  
13 NSW Police indicates that this line of inquiry was ever  
14 pursued, despite its obvious significance.

15  
16 Now, the Inquiry has established that Ms O'Meara died  
17 on 20 November 2020. The person Ms O'Meara refers to as  
18 "NP253" has since been identified by the Inquiry, and her  
19 whereabouts is known to the Inquiry. However, it is of  
20 serious concern that a statement of such obvious  
21 significance to an investigation into Mr Dye's death was  
22 not only never followed up but was not produced to the  
23 Inquiry until more than a year after it was first  
24 summonsed. The failure to follow up this information in  
25 2014 and the passage of time since then, including the  
26 death of Ms O'Meara, has reduced the capacity of the  
27 Inquiry or the NSW Police to test this evidence.

28  
29 The second matter that I wanted to alert you to,  
30 Commissioner, is the work conducted by the Inquiry in  
31 arranging for the analysis and testing of the remaining  
32 exhibits in this case.

33  
34 The Inquiry has made arrangements for the exhibits  
35 that were available to be sent to FASS for testing. The  
36 Inquiry has also been able to carry out forensic testing on  
37 the two pieces of paper which were brought up on to the  
38 screen earlier that were located by the Inquiry.

39  
40 As I alluded to, Commissioner, this is the first time  
41 that any of these items have been subjected to forensic  
42 testing, and I will address you on the results of that  
43 testing in a moment. However, it is important to note that  
44 the Inquiry has been hampered in its efforts to conduct  
45 forensic testing due to the passage of time since Mr Dye's  
46 death, nearly 30 years. Unsurprisingly, the exhibits and  
47 the items located by the Inquiry have degraded over that

1 time.

2  
3 That said, Commissioner, the same passage of time has  
4 enabled the advancement of technology in the recovery of  
5 DNA profiles from exhibits. That being the case, it is not  
6 possible to say that the results of the testing conducted  
7 by this Inquiry are more limited than they might have been  
8 had such testing occurred earlier, especially in relation  
9 to the blood on Mr Dye's jeans.

10  
11 However, what I do submit, Commissioner, is that it is  
12 obviously unfortunate that items that could have been  
13 a useful source of fingerprint or other evidence were not  
14 located by the police at any time since 1993 and only by  
15 this Inquiry in 2023. At the very least, from what we know  
16 about the evolution of technology over time, useful DNA  
17 results could have been developed in 2005, to some degree,  
18 when the matter was reviewed by the Unsolved Homicide Team,  
19 and certainly to a more extensive degree in 2019, at the  
20 time of the Unsolved Homicide Team's triage of this case.

21  
22 Commissioner, I will now make submissions about the  
23 results of the forensic testing undertaken by the Inquiry.

24  
25 The two pieces of paper that were brought up on to the  
26 screen, the yellow Post-It Note and the white piece of  
27 cardboard, that were found in Mr Dye's pocket during other  
28 forms of testing that were carried out by the Inquiry were,  
29 as we have described, a yellow Post-It Note and a thick  
30 white piece of paper with "Davidoff Cool Water" written on  
31 it, although I'm not sure that's apparent from the image.  
32 If we could just scroll up on that, that's the white piece  
33 of cardboard there, and, as I previously identified,  
34 Commissioner, that brown mark was identified by FASS as  
35 a possible bloodstain.

36  
37 An immediate difficulty that was posed to the Inquiry  
38 upon the discovery of these items was the viability or the  
39 sequencing of the testing that should be conducted on those  
40 items. How and why that was resolved is contained in  
41 Counsel Assisting's written submissions, and I won't go  
42 into it now.

43  
44 However, the result of that testing was that the DNA  
45 profile that was recovered from that brown mark was  
46 consistent with Mr Dye's profile, and a fingerprint  
47 analysis of that document revealed that there were no

1 fingerprints suitable for search or comparison that could  
2 be developed from either the white card that is on the  
3 screen or the yellow Post-It Note that was folded around  
4 it.

5  
6 It is submitted, Commissioner, that if the police had  
7 carefully examined Mr Dye's clothing at the time of the  
8 original investigation, the white card would inevitably  
9 have been found, and more informative fingerprint or  
10 potentially even DNA results might have been able to be  
11 obtained, if not at the time, then certainly subsequently.

12  
13 It is plainly unsatisfactory, Commissioner, that this  
14 evidence has lain untouched for nearly 30 years without  
15 being found or subjected to testing.

16  
17 Indeed, once again, during his oral evidence to this  
18 Inquiry in July, Detective Inspector Warren from the police  
19 agreed that it was a significant oversight for  
20 investigators to have failed to search Mr Dye's clothes  
21 thoroughly in 1993 or 1994, including as judged by the  
22 standards applicable at that time.

23  
24 Commissioner, the forensic testing carried out earlier  
25 this year at the request of the Inquiry also resulted in  
26 the discovery of multiple hairs on Mr Dye's denim shirt,  
27 inside the pockets of his shirt, on his white T-shirt and  
28 on the yellow Post-It Note. These hairs were also tested,  
29 at the request of the Inquiry, and DNA was unable to be  
30 extracted from most of them. However, one hair from the  
31 top-left shoulder of Mr Dye's denim shirt provided  
32 a partial DNA profile. This profile has been labelled  
33 "Unknown Male B". This profile was uploaded to the  
34 national database, but no matches were found.

35  
36 The Inquiry has since been informed that in relation  
37 to the profile that was obtained from that hair, it is not  
38 possible to obtain any further DNA markers from that hair  
39 because of the passage of time, even with current  
40 technology. I will come back to the Unknown Male B profile  
41 in due course, Commissioner.

42  
43 Finally, and most significantly, the Inquiry carried  
44 out testing on Mr Dye's jeans. If we could bring a picture  
45 of the jeans back on screen, I would be grateful.  
46 Thank you. They are the jeans there. Unfortunately, we  
47 don't have a view of the back of the jeans. On

1 16 February, earlier this year, Commissioner, FASS advised  
2 the Inquiry that there was an area on the back-right pocket  
3 of those jeans that had a bloodstain mark on it, and that  
4 bloodstain mark contained a mixture of DNA that originated  
5 from two individuals. Mr Dye was one of them, and the  
6 other profile was from an unknown male, who was called  
7 "Unknown Male A".  
8

9 Initially, FASS advised the Inquiry that due to the  
10 degradation of the exhibit over time, DNA markers had only  
11 been partially recovered for that unknown profile but that  
12 testing would continue.  
13

14 Between March and April 2023, so earlier this year,  
15 further progress in testing the bloodstain from the  
16 back-right pocket was made, and more DNA markers from  
17 Unknown Male A were recovered.  
18

19 The testing done by the Inquiry also revealed trace  
20 DNA was located on those jeans, namely, inside the outer  
21 layer of the back-right pocket, in the inside surface of  
22 the back-left pocket and the inside surface of the outer  
23 layer of the front-right pocket, so effectively inside the  
24 pockets of the jeans, and this trace DNA originated also  
25 from at least two individuals. Mr Dye could not be  
26 excluded as one of the contributors, and Unknown Male A  
27 could not be excluded as the other contributor.  
28

29 In May and June this year, Commissioner, the Inquiry  
30 arranged for further testing to be conducted on the sample  
31 in New Zealand using technology available there. However,  
32 no further markers could be recovered from the sample, once  
33 again due to the degradation of the exhibit over time.  
34

35 Now, at that time, and so far as the Inquiry was  
36 aware, Commissioner, no match for what was then called  
37 Unknown Male A existed on the national database. The  
38 persons of interest in this case, JF, DJ and Mr Leonard,  
39 were excluded as contributors to the Unknown Male A  
40 profile.  
41

42 However, on 19 June 2023, FASS advised the Inquiry  
43 that the DNA profile for Unknown Male A had been matched to  
44 another crime scene. The Inquiry then issued urgent  
45 summonses to the police to obtain information about that  
46 crime scene match.  
47

1           The documents produced by the police revealed that the  
2 relevant crime scene was a residential premises in  
3 Glenwood, where the offence of break, enter and steal had  
4 allegedly been committed in early 2002. The sole offender  
5 charged in relation to that offence was a person I will  
6 call "NP252". I will not be using his name in these  
7 submissions.

8  
9           NP252, so the alleged offender, was apprehended at the  
10 Glenwood scene, and two blood samples were taken, one from  
11 broken glass at the rear of the premises and another from  
12 a VCR player, which was stolen and subsequently recovered.

13  
14           A DNA sample was also taken from the alleged offender  
15 via a buccal swab, with his consent. A forensic analysis  
16 indicated that his DNA profile as taken from the buccal  
17 swab matched the blood samples at the scene.

18  
19           NP252 was released on conditional bail. However, and  
20 before the charges could be finalised in relation to that  
21 break, enter and steal offence, NP252 died by suicide later  
22 that year.

23  
24           The Inquiry only has limited information about the  
25 charges brought against NP252, which remained unresolved at  
26 the time of his death. In response to a summons requesting  
27 the relevant court file from the Blacktown Local Court, the  
28 Inquiry was advised that all files for the year 2002 were  
29 destroyed in error. In answer to a summons requesting the  
30 full brief of evidence for that charge, the police advised  
31 that a number of archived boxes that might have contained  
32 responsive material were destroyed due to water damage, and  
33 only some material was produced.

34  
35           However, although the Inquiry has not been able to  
36 arrange for the forensic testing of the buccal swab taken  
37 from NP252 directly against the Unknown Male A profile,  
38 because that swab was destroyed in accordance with the  
39 Crimes (Forensic Procedures) Act, the Inquiry did request  
40 that FASS test the Unknown Male A profile obtained from  
41 Mr Dye's jeans against the blood swab obtained from the  
42 Glenwood crime scene. In July, FASS advised that a DNA  
43 match between the profile on the jeans and the swabs taken  
44 at the crime scene in Glenwood could be confirmed.

45  
46           The Inquiry then conducted an investigation into  
47 NP252, including his criminal antecedents and his

1 associates, in an attempt to identify others who may also  
2 have been involved in relation to Mr Dye's death.

3  
4 NP252's criminal history was substantial, but of  
5 particular interest in relation to this case was that in  
6 December 1993, NP252 was arrested and charged in relation  
7 to the use of an iron bar in a fight in Mount Druitt and  
8 that on 4 January 1994, whilst in the company of five other  
9 men, he assaulted a German tourist on William Street, near  
10 Kings Cross. That assault occurred without any apparent  
11 provocation, and NP252 was arrested and charged with  
12 assault occasioning actual bodily harm.

13  
14 Summons issued to the police and the ODPP about  
15 these offences did not result in the production of any  
16 records.

17  
18 Commissioner, it is submitted that the following  
19 conclusions can be drawn from the evidence that the Inquiry  
20 has obtained. The first is that NP252 was at the Glenwood  
21 address in 2002 when an offence took place, and his DNA was  
22 recovered from the scene in the form of blood samples.  
23 Second, NP252's DNA was located in a bloodstain contained  
24 on the outside back-right pocket of Mr Dye's jeans. Third,  
25 the existence of NP252's DNA within a bloodstain on  
26 Mr Dye's jeans is consistent with his having made physical  
27 contact with Mr Dye on the night he was assaulted. Fourth,  
28 the likely presence of NP252's DNA in the four inside  
29 surfaces of Mr Dye's pockets indicates that NP252's hands  
30 were inside Mr Dye's pockets the night he was assaulted.

31  
32 However, on the publicly available information to this  
33 Inquiry, it is submitted that it is not possible to draw  
34 any conclusions about what, if any, role NP252 played in  
35 Mr Dye's death and, in particular, whether he carried out  
36 or participated in any physical assault against Mr Dye.

37  
38 The Inquiry's identification of NP252 in 2023 as  
39 a person of interest in relation to the death of Mr Dye in  
40 1993 demonstrates the importance of ensuring the timely and  
41 repeated forensic testing of exhibits, even in what are  
42 called cold cases.

43  
44 It is regrettable that in Mr Dye's case this step was  
45 not taken at any time after December 1993 until 2023, by  
46 which time, NP252 has now died and relevant records have  
47 been lost or destroyed. Those factors make it, for obvious

1 reasons, significantly more difficult to pursue these  
2 leads.

3  
4 The next matter I wanted to address, Commissioner, is  
5 whether it is possible for this Inquiry to draw any  
6 conclusions about whether the attack on Mr Dye was  
7 motivated by LGBTIQ bias.

8  
9 The material available to this Inquiry indicates that  
10 Mr Dye identified as gay or bisexual and that he had sexual  
11 encounters with other men. In my submission, Commissioner,  
12 there are several factors that suggest that the attack on  
13 Mr Dye was in fact motivated by LGBTIQ bias. The first is  
14 the time and the location of the attack. It was in the  
15 early morning in the vicinity of Oxford Street's gay pubs  
16 and nightclubs. Proximity to such known LGBTIQ locations  
17 is well recognised as a feature of many anti-LGBTIQ attacks  
18 that occurred in the 1970s, 1980s and 1990s. At the time  
19 of Mr Dye's murder, the area surrounding Little Oxford  
20 Street was a hotspot for street robberies and assaults,  
21 including targeted robberies and assaults against members  
22 of the LGBTIQ community.

23  
24 The second factor, Commissioner, is the fact that an  
25 eyewitness observed three men standing around what was  
26 described by Mr Neilson as a large object lying on the  
27 ground, later found to be, in fact, Mr Dye. This may  
28 suggest that a gang was involved in the attack.

29  
30 Third, in circumstances where Mr Dye was very  
31 intoxicated, the amount of force used to assault him seems  
32 excessive if his assailant or assailants only wanted to rob  
33 him. An extreme level of violence may, in some  
34 circumstances, indicate that a crime is a hate crime.

35  
36 Fourth, Mr Dye's assailant or assailants may have had  
37 multiple or concurrent motivations. In other words,  
38 a crime involving a robbery can also be a hate crime.  
39 I will develop this submission further when I address you  
40 on the treatment of this case by Strike Force Parrabell.

41  
42 Fifth, there are indications that an organised hate  
43 group or groups might have been active in Sydney at the  
44 time of Mr Dye's death. Material produced by the police in  
45 response to this case contains statements made by victims  
46 of robberies in the area of Little Oxford Street around  
47 1993 and 1994, some of which refer to groups of men who

1 were targeting gay men for robberies and assaults and using  
2 homophobic language in the course of those attacks.

3  
4 Sixth, at least two of the four people or persons of  
5 interest in relation to Mr Dye's death manifested  
6 anti-LGBTIQ bias.

7  
8 Finally, at least some of Mr Dye's friends were of the  
9 view that Mr Dye's death was a gay hate crime.

10  
11 However, Commissioner, and on the other hand, the area  
12 in question was also a hotspot for robberies generally.  
13 Mr Dye was intoxicated and staggering, and another  
14 possibility which cannot be excluded is that he was simply  
15 the victim of a robbery-based attack, with no hate  
16 motivation.

17  
18 So, while the identity of Mr Dye's assailant or  
19 assailants and the motivations of such an assailant or  
20 assailants remains unknown, it is not possible to arrive at  
21 a firm conclusion or a positive conclusion that the attack  
22 on Mr Dye was motivated either in whole or in part by  
23 LGBTIQ bias. However, and having regard to the whole of  
24 the evidence, it is submitted that there is objectively  
25 reason to suspect that the attack was motivated by LGBTIQ  
26 bias, either in whole or in part.

27  
28 Commissioner, the final substantive topic I wanted to  
29 address you on is the Strike Force Parrabell review of  
30 Mr Dye's case.

31  
32 As you have heard elsewhere, Commissioner, Strike  
33 Force Parrabell was the NSW Police Force's review of  
34 certain cases to determine whether there was any evidence  
35 that LGBTIQ bias contributed to the death, and Mr Dye's  
36 case was one of the cases looked at by Strike Force  
37 Parrabell.

38  
39 I don't propose to take you to it, Commissioner, but  
40 the Bias Crime Indicators Review Form in relation to Mr Dye  
41 which was completed by Strike Force Parrabell is contained  
42 at tab 90 of the tender bundle. I will further draw your  
43 attention, Commissioner, to the fact that our written  
44 submissions in relation to this issue are explored in  
45 paragraphs 73 to 91 of that document.

46  
47 However, and by way of broad overview, the Bias Crime

1 Indicators Review Form, or what I might call the "BCIF" for  
2 short, that was completed in this case reveals that the  
3 police determined there was what they classified as  
4 insufficient information to determine whether a bias  
5 motivation was present in relation to five of the 10  
6 indicators contained in the BCIF, and that in relation to  
7 four of the 10 indicators, there was evidence to find that  
8 Mr Dye's case was a suspected bias crime. In relation to  
9 one indicator, Strike Force Parrabell concluded that there  
10 was no evidence of a bias crime.

11  
12 The overall classification given to this case by  
13 Strike Force Parrabell was insufficient information to  
14 determine whether a bias motivation was a factor in his  
15 death.

16  
17 Although the evidence given by the police to this  
18 Inquiry was that it was not a question of how many  
19 indicators were present in relation to the ultimate  
20 classification given to any case, it is apparent that  
21 Strike Force Parrabell considered that there were features  
22 of Mr Dye's case that gave rise to a suspicion that it was  
23 a bias crime.

24  
25 Furthermore, there is evidence before this Inquiry  
26 that indicates that the ultimate classification of Mr Dye's  
27 case was the subject of some internal debate within the  
28 Police Force, because the Bias Crime Unit within the Police  
29 Force suggested that this case be classified as a suspected  
30 bias crime; however, this was not the classification  
31 adopted by Strike Force Parrabell.

32  
33 It is evident from the contents of the BCIF,  
34 Commissioner, that the basis for Strike Force Parrabell's  
35 conclusion that there was insufficient information to  
36 elevate this case to the category of suspected bias crime  
37 was the belief that the motive for the attack on Mr Dye was  
38 robbery.

39  
40 In my submission, Commissioner, this reflects an  
41 assumption or a preconception on the part of Strike Force  
42 Parrabell that where a robbery is involved, there is  
43 a binary choice that is required between robbery and bias,  
44 so if robbery is a motive, then bias is, in effect,  
45 negated. The possibility of both motives coexisting does  
46 not appear to have been considered by Strike Force  
47 Parrabell in any detail at all.

1  
2 As has been submitted to this Inquiry in another  
3 context, a hate crime assailant or assailants may have  
4 multiple or concurrent motivations. In the opinion of  
5 Professor Nicole Asquith, an expert on hate crime, most  
6 LGBTIQ hate crime is opportunistic, and many offenders who  
7 assault their victims will also take the opportunity to rob  
8 them.  
9

10 It is submitted that to reason otherwise is to fail to  
11 recognise the possibility that a crime may be partially  
12 motivated by bias, such as where members of the LGBTIQ  
13 community or persons who are perceived as such are selected  
14 as victims of robberies, whether because they are seen as  
15 easy targets or for some other reason. This idea was  
16 simply not engaged with by Strike Force Parrabell, even  
17 though the idea of partial or concurrent motivation was  
18 consistent with the definition of bias and bias crime that  
19 they were actually using themselves.  
20

21 In the submission of Counsel Assisting, the approach  
22 taken by Strike Force Parrabell in this respect was flawed  
23 and illustrative generally of the subjectivity involved in  
24 the exercise that Strike Force Parrabell engaged in.  
25

26 Commissioner, there are also various inconsistencies  
27 and inaccuracies in the Strike Force Parrabell  
28 documentation, but I don't intend to address you on those  
29 orally, save to say that they are concerning to the extent  
30 that they reflect a failure to engage with some of the  
31 underlying material in any meaningful way and a lack of  
32 attention to detail by Strike Force Parrabell generally.  
33

34 Commissioner, if I could move on to the issue of the  
35 manner and cause of Mr Dye's death. The submission of  
36 Counsel Assisting is that the findings of State Coroner  
37 Hand in 1995 remain appropriate, namely, that on  
38 25 December 1993, at the St George Hospital in Kogarah,  
39 Crispin Wilson Dye died of the effects of a head injury  
40 inflicted on 23 December 1993 in Campbell Street,  
41 Darlinghurst by a person or persons unknown.  
42

43 Finally, Commissioner, in relation to recommendations,  
44 it is submitted that the following recommendations would be  
45 appropriate: first, that the NSW Police monitor DNA  
46 databases available to them with a view to identifying  
47 a match to Unknown Male B, whose DNA was located in 2023 at

1 the direction of the Inquiry from a hair found on Mr Dye's  
2 shirt; and, secondly, that the NSW Police ensure that the  
3 white card found by the Inquiry in Mr Dye's shirt pocket is  
4 kept securely as an exhibit, in the event that  
5 technological developments can assist in determining  
6 whether the bloodstain mark on that card is a fingerprint.  
7

8 Finally, I note that private hearings have occurred in  
9 relation to this matter, and further recommendations in  
10 relation to Mr Dye will be contained in a confidential  
11 section of the report of the Inquiry in due course.  
12

13 That concludes my oral submissions, Commissioner.  
14

15 THE COMMISSIONER: Thank you. Yes.  
16

17 MR MYKKELTVEDT: We will seek to provide written  
18 submissions in accordance with the practice direction.  
19

20 THE COMMISSIONER: All right. Thank you. After I have  
21 received the police's submissions, I will report on this  
22 matter in due course. Thank you. Otherwise, I will now  
23 adjourn. Thank you.  
24

25 **AT 11.34AM THE SPECIAL COMMISSION OF INQUIRY WAS ADJOURNED**  
26 **ACCORDINGLY**  
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