

**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 Thursday, 24 August 2023 at 10am

(Day 84)

**Ms Christine Melis (Counsel Assisting)
Ms Kate Lockery (Principal Solicitor)**

Also Present:

Mr Mathew Short for the NSW Police

1 MS C MELIS: Commissioner, I appear to assist you.

2

3 THE COMMISSIONER: Thank you.

4

5 MR M SHORT: Good morning, Commissioner. Short for the
6 Commissioner of Police.

7

8 THE COMMISSIONER: Thank you, Mr Short.

9

10 MS MELIS: Commissioner, this is public hearing 16 in the
11 matter of William Allen. I hand up two bundles of
12 material, Commissioner, together with some proposed short
13 minutes of order in respect of that material, as well as
14 Counsel Assisting's submissions dated 23 August 2023.

15

16 THE COMMISSIONER: Thank you.

17

18 MS MELIS: Commissioner, unless there is any objection,
19 I seek to tender those two volumes as exhibit number 61.

20

21 THE COMMISSIONER: Mr Short, I take it the short minutes,
22 you have had a look at them, they are by consent?

23

24 MR SHORT: That is so, and there is no objection to the
25 material.

26

27 THE COMMISSIONER: Thank you very much. All right, I will
28 make those orders. Thank you.

29

30 **EXHIBIT #61 TWO VOLUMES OF MATERIAL IN THE MATTER OF**
31 **WILLIAM ALLEN**

32

33 THE COMMISSIONER: Yes, I have done that, thank you.

34

35 MS MELIS: Thank you, Commissioner.

36

37 William Emmanuel Allen, also known as Bill, died on
38 29 December 1988 at his home in Alexandria in New South
39 Wales. He died as a result of head injury sustained on the
40 evening of 28 December 1988 when he was attacked and beaten
41 in Alexandria Park outside the toilet block there.

42

43 Alexandria Park was about 800 metres from where
44 Mr Allen lived.

45

46 The person or persons responsible for the attack on
47 Mr Allen have never been identified.

1
2 Just over a year later, on 24 January 1990, Mr Richard
3 Johnson, a gay man, would die outside the same toilet block
4 at Alexandria Park from injuries inflicted on him by eight
5 boys who beat him.
6

7 At the time of Mr Allen's death, Alexandria Park was
8 a known beat, particularly the area around the toilet
9 block. It will be my ultimate submission that there is
10 reason to suspect that Mr Allen met his death as
11 a consequence of an assault motivated by LGBTIQ bias.
12

13 I now turn to the circumstances of Mr Allen's death.
14 Mr Allen was born on 14 August 1940 and was 48 years old
15 when he died. The available evidence strongly suggests he
16 was a gay man. He was a schoolteacher by profession before
17 he medically retired due to high blood pressure and stress.
18

19 On 28 December 1988, Mr Allen did not respond to
20 knocks at his front door at 11am and later in the afternoon
21 by David Oliver, a carpenter, who had concluded renovations
22 on Mr Allen's property and was seeking payment.
23

24 Around 7pm that day, Mr Allen was observed on his
25 front porch appearing intoxicated but happy and exchanged
26 pleasantries with his neighbours. Mr Oliver returned at
27 around 8pm, but there was no answer to his knock on
28 Mr Allen's front door, though the hallway light was on and
29 his car was parked in front of the property. Mr Oliver
30 called Mr Allen repeatedly until around 11pm that night, he
31 says, but received no response.
32

33 For the next portion, could the map at tab 63 of
34 exhibit 61 please be shown. [SCOI.10375.00088_0001].
35 Commissioner, this is a map from about 1990, when Richard
36 Johnson was murdered. For all intents and purposes, it can
37 be assumed that the map is a reflection of the roads and
38 landmarks surrounding Alexandria Park in December 1988, and
39 you can clearly see Alexandria Park marked at the centre of
40 that map.
41

42 At around 10pm, a witness, Harry Berwick, said he
43 drove along Wyndham Street, left into Power Avenue and
44 right into Park Road. As can be seen on the map, these
45 streets, with Buckland Street, surround Alexandria Park.
46

47 Mr Berwick said that just past the toilet block, which

1 was on his right on Park Road, he observed Mr Allen
2 standing on the road, waving and signalling to him.
3 Mr Berwick stopped his vehicle, and Mr Allen came to the
4 passenger side and shouted, "I've been bashed." Mr Allen's
5 face and hands were covered in blood, and his nose was
6 bleeding. Mr Berwick smelt alcohol on Mr Allen's breath
7 but noted Mr Allen was lucid in his speech and did not
8 appear to be outraged by the incident.
9

10 Mr Allen asked for assistance, and Mr Berwick agreed.
11 Mr Allen said he had been assaulted. He said his
12 assailants, and I quote, "bashed me and kicked me whilst
13 I was on the ground, the bastards, and they took my money
14 and keys."
15

16 Mr Berwick repeatedly suggested that Mr Allen contact
17 police, but Mr Allen replied, "That's what you expect when
18 you do the beat."
19

20 Mr Berwick understood this to be a reference to
21 Mr Allen being a gay man and an indication that he
22 regularly attended Alexandria Park, which he said was known
23 to be frequented by homosexuals. Mr Berwick drove Mr Allen
24 to his home, and Mr Allen said, "I'll have to get a spare
25 set of keys and go back to get my car." Mr Berwick then
26 drove away.
27

28 Given the location, time of night and comments made by
29 Mr Allen to Mr Berwick, it is submitted that it is likely
30 that Mr Allen was present at Alexandria Park to use the
31 beat.
32

33 Mr Berwick provided a further statement to this
34 Inquiry, Commissioner. It is dated 28 June 2023 and can be
35 found at tab 79 of exhibit 61.
36

37 Mr Berwick said that Mr Allen also told him that he
38 had written his phone number on the toilet block wall. He
39 said this as part of the conversation where he said,
40 "That's what you get when you do the beat." Mr Berwick
41 told the Inquiry that writing your phone number on the wall
42 of the toilet block was a common practice by men living
43 alone and wanting to meet men at the beat.
44

45 Later that night, at around 12.30am on 29 December
46 1988, Ordinance Inspectors Peter Martin and Wayne Murphy
47 observed a small silver car parked opposite the toilets at

1 Alexandria Park. There was blood on the driver's door,
2 a trail of blood leading to the toilets, and a large amount
3 of blood and a set of keys in the middle of the roadway.
4

5 A few minutes later, Mr Allen pulled up, driving
6 a white station wagon. Mr Martin approached. Mr Allen had
7 blood around his mouth and a swollen lip but did not, to
8 Mr Martin's eye, appear to be seriously injured. He
9 advised Mr Martin that it was his blood and keys on the
10 road and said that, "Two or three kids have bashed me, so
11 I went and got a friend's car." Mr Martin recommended that
12 Mr Allen report the assault to the police, and Mr Allen
13 replied, "Yeah, I will. I just dropped in to these toilets
14 for a squirt when the kids got me."
15

16 Mr Allen indicated that he had been able to hold on to
17 his money but that his attackers "kicked me when I was on
18 the ground". Mr Allen drove the silver car home.
19

20 Later, at 7.45am and 12pm on 29 December 1988,
21 Mr Oliver attended Mr Allen's home again but received no
22 answer at the door. On the second occasion, he spoke to
23 Mr Allen's neighbour, Robert Gannon. Mr Gannon spoke to
24 another neighbour, Mr Ronald Sigsworth, who entered
25 Mr Allen's garden and observed the back door to be wide
26 open. Mr Sigsworth called out and received no reply but
27 heard water running and looked through the bathroom window.
28 Mr Sigsworth observed Mr Allen slumped over the side of the
29 bathtub, with the bath tap running and blood at the bottom
30 of the bath. Mr Sigsworth then went to his home and called
31 the police.
32

33 An autopsy was performed by Dr Sylvia Hollinger on
34 30 December 1988. The autopsy report, dated 10 May 1989,
35 recorded Mr Allen's direct cause of death as "head injury
36 with brain damage associated with alcohol ingestion".
37

38 Mr Allen had numerous injuries consistent with an
39 assault. An anal swab was taken during the post-mortem
40 examination. It does not appear, however, that this was
41 ever tested.
42

43 The Forensic & Analytical Science Service has advised
44 the Inquiry that checks were conducted of the forensic
45 biology receipt books over the time period from December
46 1988 until the end of February 1989, and no records
47 relating to the death of Mr Allen could be located. It is

1 therefore not possible to know whether there was any
2 forensic testing done on any exhibits.

3
4 NSW Police also cannot locate any exhibits in the
5 matter of Mr Allen, including wine carafes and a glass
6 coffee jar taken from his home and hair and fingernail
7 samples and the anal swab taken at post-mortem. It is
8 therefore not possible, Commissioner, to now subject these
9 exhibits to modern forensic testing.

10
11 A coronial inquest was held on 4 July 1989 before the
12 then State Coroner Kevin Waller. Mr Allen's brother and
13 sister were in attendance. State Coroner Waller found that
14 Mr Allen "died of the effects of head injury sustained on
15 the night of the 28th day of December 1988 when he was
16 beaten by persons unknown in Alexandria Park".

17
18 Some of the State Coroner's observations on the
19 evidence are worth noting, Commissioner. For this portion,
20 could we please show tab 7 of exhibit 61, particularly
21 page 26, [SCOI.84271_0001].

22
23 Commissioner, here - and, Commissioner, I'm
24 particularly reading from line 10 on page 26 - observing
25 that Mr Allen was apparently a homosexual, the State
26 Coroner observed that the evidence had shown that he had
27 gone to Alexandria Park. The State Coroner said:

28
29 *It is a risk of people, as the deceased*
30 *himself admitted, when you are on the beat,*
31 *you take the risk that people indulge in*
32 *the sport of chasing and assaulting*
33 *homosexuals, which is a disgraceful state*
34 *of affairs, and, indeed, this is the second*
35 *case I have had where a person has died as*
36 *a result of being assaulted in the park by*
37 *homosexuals [sic]. Of course, one could*
38 *say, "Well, you shouldn't go to the park",*
39 *but one can say, I think with perhaps more*
40 *strength, that you shouldn't set about in*
41 *numbers to assault people to such an extent*
42 *that you kill them. It is a dreadful sort*
43 *of business and I wish the people could be*
44 *caught. It is made even worse by the fact*
45 *that those violent persons revel and enjoy*
46 *the situation that the victims do not like*
47 *to report these crimes to police because of*

1 *the ignominy that attaches to their roles*
2 *as cruising homosexuals, but, nevertheless,*
3 *it is a very sad case and I am sorry for*
4 *the deceased and his family.*

5
6 Thank you, if that could please be taken down.

7
8 Commissioner, it is evident from those remarks that
9 the State Coroner heard evidence that Alexandria Park was,
10 and I quote, "a known area of resort by homosexuals".

11
12 Detective Sergeant Saunders, the officer in charge,
13 agreed that gay men were beaten up there from time to time
14 and that, in fact, neighbours had told police during their
15 canvass of the area after Mr Allen's death that on several
16 occasions, people had asked to use their phone after being
17 assaulted in those toilets, but "never, never, ever to
18 contact police".

19
20 Detective Sergeant Saunders told the State Coroner he
21 had contacted the Police Gay Liaison Unit, who ran a number
22 of articles in newspapers wishing for homosexuals who have
23 been assaulted in parks to come forward. However, they got
24 a very poor response.

25
26 This is a reflection, it is submitted, of evidence the
27 Inquiry has previously heard of the deep distrust between
28 members of the LGBTIQ community and police at this time.

29
30 In his statement to the Inquiry, Mr Berwick said the
31 beat was very open and the lighting was poor. His
32 impression was that the beat was used by local men, unlike
33 the beats around the beaches, which people travelled to
34 visit. He says it was well known by people living in the
35 area that the toilets at Alexandria Park were a beat.
36 There were no paths to walk along, like some other beats,
37 or areas that were more private. If men wanted to have
38 sex, they often sat in their car on Park Road and watched
39 who arrived. If a person went in to the toilet block and
40 was there for a while, it suggested they were there to use
41 the beat. If a man was attracted to the person who entered
42 the toilet block, they followed the person in to the toilet
43 for sexual activity.

44
45 The Inquiry is aware, including from the evidence of
46 activist Barry Charles, of other assaults on gay men at
47 Alexandria Park.

1
2 As I have mentioned, the park was also the location of
3 the murder of Richard Johnson in 1990, for which eight
4 youths were charged and convicted and became known as the
5 "Alexandria Eight". Mr Johnson was lured to the park on
6 the pretext of a homosexual liaison after one or more of
7 the youths called his number after acquiring it from inside
8 the toilet block at Alexandria Park, where it was written.
9 Upon his arrival at the toilet, he was set upon and beaten
10 by the eight youths. He died at the scene.
11

12 The Inquiry has some photos of the toilet block that
13 were taken shortly after the death of Richard Johnson in
14 1990. If the first photo could please be shown. It is
15 photo 36 at tab 26 of exhibit 1. [SCOI.83638_0001].
16 Commissioner, this first photo shows the toilet block from
17 the outside on Park Road. The second photo, which can be
18 found at tab 60, depicts a close-up of the entrance to the
19 toilet block. One can see the words "basher" and "gay"
20 that are graffitied on the inside of the entrance wall.
21 The following and last photo at tab 60 depicts the inside
22 walls near the urinal inside the men's toilet. One can
23 just see the various writings on the bricks of the walls on
24 the right side of the photo, and other derogatory language.
25

26 Thank you, if that could be taken down.
27

28 Following the discovery of Mr Allen's body, his
29 neighbours called the police. Police attended and observed
30 dry blood on the footpath leading from the front gate to
31 the rear of the premises and drops of blood on the front
32 verandah of a neighbouring house close to the side passage
33 of Mr Allen's property. There was blood leading from the
34 bathroom to the front bedroom on the bathroom window frame
35 and on the bedding. There were no signs of forced entry,
36 and no items appeared to have been stolen.
37

38 Mr Allen was found kneeling beside the bathtub,
39 dressed only in a T-shirt, with his arms and head hanging
40 over into the bath, with blood coming from his head.
41 A 3cm laceration was observed above his left eye, and there
42 was swelling to the same eye and to the lips and jaw.
43

44 Detective Sergeant Cameron of the Crime Scene Unit
45 expressed the view that, reconstructing the scene, Mr Allen
46 was injured elsewhere and returned home. He climbed over
47 a dividing wall and walked up the side passageway of the

1 house and entered the property via the bathroom window. He
2 walked through the house and laid down in his bed, leaving
3 bloodstains. He also smoked cigarettes and drank from
4 a glass, based on bloodstained items in the kitchen sink.
5 Some time later, Mr Allen collapsed in the bathroom.

6
7 A number of videotapes were discovered during the
8 search of Mr Allen's property, some of which contained
9 child abuse material. These videotapes were not taken into
10 evidence by police but were left at the property and later
11 taken by a member of the public who knew Mr Allen. The
12 latter person shared the tapes with another acquaintance of
13 Mr Allen. That person, who is now deceased, gave
14 a statement to the NSW Police in 1991 in which they said
15 that when they saw the content, they were revolted and
16 wiped all the cassettes other than a cassette containing
17 footage of Mr Allen and his friends on holiday.

18
19 Statements were collected from Mr Allen's friends,
20 family and neighbours and other witnesses, including
21 Mr Martin, the Ordinance Inspector. The passer-by,
22 Mr Berwick, whom Mr Allen flagged down, came to the
23 attention of police after Mr Allen's brother, Stuart Allen,
24 heard from other friends in the area that Mr Berwick had
25 driven past Mr Allen the night he was assaulted.

26
27 A canvass was conducted by police of Buckland Street.
28 However, no useful information was obtained. A number of
29 youths "of the hoodlum element", who were known to frequent
30 Alexandria Park, were spoken to, but, again, no useful
31 information was obtained. No specific record or canvass
32 form recording the youths who were spoken to has been
33 produced to this Inquiry. Indeed, the NSW Police have been
34 unable to locate any of the police notebooks or duty books
35 relevant to the investigation of Mr Allen's death.

36
37 Fingerprints were lifted from items in Mr Allen's
38 house, from the two wine carafes and a jar of coffee. The
39 identified fingerprints belonged to Mr Allen.

40
41 Mr Allen's brother was contacted, requesting a photo
42 of Mr Allen with the view of having it placed in the Daily
43 Mirror newspaper, together with a story surrounding his
44 death. However, the request was denied. Mr Stuart Allen
45 said the family did not wish any further publicity.

46
47 Mr Allen's neighbours noticed that he had a frequent

1 visitor named Robert - apparently, Robert Dunn, a close
2 friend and former colleague of Mr Allen's, who was later
3 charged and convicted of child sex offences and died in
4 custody.

5
6 In his statement to police in 1989, Mr Dunn stated
7 that Mr Allen was not interested in casual sex with men
8 because of the risk of AIDS.

9
10 In 1991, further investigative steps were undertaken
11 by other police officers regarding Mr Allen's death.
12 Mr Dunn and Mr Colin Fisk, another friend of Mr Allen's,
13 both of whom had been arrested by police for the sexual
14 abuse of young boys by this time, provided police with
15 further information, including that Mr Allen would frequent
16 toilets in the Newtown area but had ceased this practice as
17 he considered it too dangerous. They also revealed that
18 Mr Allen was involved in the supply of illicit drugs and
19 cultivated cannabis and that he had a large amount of money
20 on his premises prior to his death. Mr Allen also had
21 a number of videotapes containing child abuse material
22 variously made by and featuring Mr Allen and his
23 associates.

24
25 This information, Commissioner, was of course not
26 before the Coroner at the time of the inquest into
27 Mr Allen's death.

28
29 Police also later became aware that Mr Allen had
30 allegedly perpetrated a number of child sex offences,
31 including at Peshurst Marist Brothers, where he had
32 previously taught science, and produced and featured in
33 child abuse material. The evidence of Mr Allen's suspected
34 involvement in child sex offences is outlined and
35 considered by the Unsolved Homicide Team in their triage of
36 Mr Allen's death in 2021, which can be found at tab 53 of
37 exhibit 61. [SCOI.03130_0001].

38
39 The suspected allegations are also outlined in Counsel
40 Assisting's written submissions at paragraph 52. I will
41 not repeat the details of those allegations.

42
43 It is neither necessary nor appropriate for you,
44 Commissioner, to make findings of criminal guilt in
45 relation to Mr Allen's suspected involvement in child sex
46 offences. The focus of this Inquiry is on manner and cause
47 of Mr Allen's death.

1
2 However, the Inquiry's Terms of Reference call for
3 consideration of possible motives for Mr Allen's murder,
4 and the evidence of Mr Allen's suspected involvement in
5 child sex offences and the supply of illicit drugs may be
6 relevant in this regard. That evidence is also relevant to
7 the police investigation into Mr Allen's murder, including
8 possible lines of inquiry which were not pursued and what
9 information was available to the police at various points
10 in time.

11
12 It would be a disservice to the victims of child sex
13 offences for the evidence to be altogether ignored.

14
15 On 24 August 2021, Detective Senior Constable
16 Kim Fidden completed a triage form for a review by the
17 Unsolved Homicide Team into Mr Allen's death. Detective
18 Senior Constable Fidden assessed that the matter should
19 proceed to review. No review by the Unsolved Homicide Team
20 has ever occurred. It is not apparent why a review did not
21 occur.

22
23 I turn now, Commissioner, to the topic of persons of
24 interest. During the police investigation which occurred
25 between 29 December 1988 and the coronial inquest into
26 Mr Allen's death on 4 July 1989, it appears that no persons
27 of interest were identified.

28
29 On 13 May 1991, a 17-year-old youth attended Surry
30 Hills Police Station and advised that he had been involved
31 in the attack on Mr Allen. However, this person admitted
32 that he was being treated for depression and had recently
33 attempted suicide and made the confessions in an attempt to
34 seek medical attention, feeling that being
35 institutionalised was the only way for him to obtain such
36 health care. This person appears to have been discounted
37 as a genuine person of interest by police in the
38 investigation. However, there is limited material before
39 the Inquiry as to the consideration by police of this
40 person's status as a person of interest.

41
42 In February 1991, Colin Fisk provided information to
43 police in which he nominated another boy as potentially
44 being involved in the death of Mr Allen. Mr Fisk told
45 police that this boy was a heroin addict and had a prior
46 association with Mr Allen. This person does not appear to
47 have been considered a person of interest in Mr Allen's

1 death by police.

2
3 Following the conviction of the Alexandria Eight and
4 the death of Kritchikorn Rattanjurathaporn at Bondi in
5 July 1990, also a gay man who was brutally bashed, former
6 Detective Sergeant Steve McCann, who led the investigation
7 into both deaths, conducted a further investigation into
8 the death of Mr Allen. He compiled summaries of the links
9 and connections he had discovered in relation to attacks on
10 gay men, including attacks resulting in deaths in Sydney.
11 Detective Sergeant McCann included the circumstances of the
12 death of Mr Allen and the various persons of interest in
13 these summaries. This reflected Detective Sergeant
14 McCann's view that the death of Mr Allen may have been
15 motivated by gay hate bias.

16
17 His further investigation of Mr Allen's death involved
18 covert operations, including the use of listening devices
19 to lawfully record conversations with certain persons,
20 including members of the Alexandria Eight, who by then were
21 serving their sentences for their involvement in the death
22 of Mr Johnson.

23
24 The evidence obtained from the listening devices did
25 not lead to charges being brought against anyone, although
26 Detective Sergeant McCann noted that the information
27 gathered would be retained for future attention if any
28 further corroboration was forthcoming.

29
30 This Inquiry has conducted a series of private
31 hearings and conferences in relation to Mr Allen's death
32 with witnesses and persons of interest. The possible
33 motivations for his death were canvassed at those hearings.
34 That evidence will be the subject of a confidential part of
35 the report of the Inquiry in due course.

36
37 I turn now to steps which could or should have been
38 taken by police but which were not.

39
40 First, police knew Alexandria Park was a beat. So
41 much is clear from the coronial transcript. There was
42 a possibility that Mr Allen was bashed while attending the
43 toilet block as a beat. The Inquiry has photographs that
44 were taken of the inside of the toilet block by police on
45 3 February 1990 following the death of Richard Johnson.
46 The walls contained numerous messages seeking or inviting
47 sexual encounters, with telephone numbers.

1
2 Appreciating that those photos were taken over a year
3 after Mr Allen's death, they reflect, it is submitted, the
4 likely state of the inside of the toilet block in December
5 1988. This is also consistent with information from
6 Mr Berwick, who told the Inquiry in his most recent
7 statement that writing your phone number on the wall of the
8 toilet block was a common practice by men living alone and
9 wanting to meet men at the beat. Mr Allen also told him,
10 you will recall, that he had written his phone number on
11 the toilet block wall.

12
13 It is submitted that it should have been obvious to
14 anyone looking at the walls at the time that if Mr Allen
15 had been attending the toilet block as a beat, then his
16 number may have been on one of the walls. This is
17 regardless of the fact that Mr Berwick's original statement
18 did not include information about Mr Allen's phone number
19 possibly being on the wall.

20
21 The toilet wall should have been reviewed for
22 Mr Allen's phone number. Yet, no officer of the NSW Police
23 thought to check if Mr Allen had placed his phone number in
24 the toilet block. The failure to make any examination of
25 this kind, it is submitted, was a significant oversight by
26 police.

27
28 The significance of the oversight only becomes starker
29 when one has regard to the photos that were taken by police
30 of the inside walls of the toilet block after the death of
31 Richard Johnson.

32
33 Commissioner, because of the sensitivity of some of
34 those photos, they cannot be shown publicly.

35
36 The possibility that Mr Allen's phone number was on
37 the toilet wall might have informed the direction of the
38 police investigation, including conducting night patrols of
39 the park and any nearby phone boxes for any potential
40 persons of interest.

41
42 Even if this was not how Mr Allen was killed, the
43 failure to pursue this line of investigation may reflect
44 police indifference to homosexual men being assaulted in
45 Alexandria Park. An active investigation may have
46 prevented the conduct in the future or reduced its
47 prevalence earlier.

1
2 By his remarks, the State Coroner clearly wished
3 something could be done. There is the possibility,
4 admittedly speculative, that if police had pursued this
5 line of investigation more actively in 1989, future
6 assaults, and even future homicides, might have been
7 avoided. It could have also informed future reviews and
8 investigation into Mr Allen's death, particularly after
9 Richard Johnson's murder. The information might have been
10 used to better inform, for example, the strategy around the
11 use of listening devices in 1991.
12

13 It is now not possible to know whether Mr Allen's
14 number was on the toilet wall and whether he received
15 a call from a location proximate to Alexandria Park the
16 night he was assaulted. Telstra advised the Inquiry that
17 no records are held for Mr Allen or his address as at
18 December 1988 and that no details for pay phones were
19 available for the relevant date.
20

21 A second step that should have been taken but was not
22 is that the child abuse material found at Mr Allen's home
23 should have been seized by police. As I have mentioned,
24 investigations revealed that the videotapes were later
25 taken by a member of the public. While there is no
26 evidence before the Inquiry to suggest that Detective
27 Sergeant Saunders, as the officer in charge of the original
28 investigation, acted with malicious intent in failing to
29 take this material into evidence, this was, at the very
30 least, a substantial neglect of his duties to the public.
31

32 If the videos recorded child abuse material, as the
33 contemporaneous records indicate, it would have been
34 evident to even a layperson that the videos ought to have
35 been provided to the relevant authorities to aid in the
36 care of children and their protection from further abuse,
37 as well as for the further investigation of the crimes they
38 revealed.
39

40 The tapes might also have shed light on the identities
41 of victims of sexual abuse, noting sexual abuse may have
42 been a potential motive for the assault of Mr Allen.
43

44 During his evidence to this Inquiry, Commissioner,
45 Detective Inspector Nigel Warren said that the videotapes
46 would have been "an avenue to identify persons that could
47 lead to information about perhaps something that happened

1 before Mr Allen was at the toilet block". The
2 identification of persons on the tapes could also give
3 police "insight into persons that Mr Allen had connection
4 with".
5

6 Detective Inspector Warren was, however, unable to
7 assist with whether the failure by police to seize the
8 material was in accordance with proper police practice at
9 the time although told the Inquiry that today it would be
10 expected that police would seize such material.
11

12 In fairness to the NSW Police, it should be recognised
13 that the Internal Police Security Branch at the time
14 conducted an investigation following complaints by Mr Dunn
15 and Mr Fisk into aspects of the original police
16 investigation. Care needs to be taken about the evidence
17 emerging from that investigation, as articulated in the
18 written submissions of Counsel Assisting at paragraphs 64
19 to 68.
20

21 I turn now to say something about Strike Force
22 Parrabell and its treatment of this matter. Strike Force
23 Parrabell noted that there were various potential motives
24 for Mr Allen's death, including robbery and Mr Allen's
25 supply and sale of cannabis and amyl nitrate.
26

27 The Bias Crimes Indicator Form indicates that Mr Allen
28 was suspected to be a paedophile. It also notes that
29 Mr Allen apparently believed his assault to be motivated by
30 LGBTIQ bias, as indicated by his comment of, "That's what
31 you expect when you do the beat." Overall, Strike Force
32 Parrabell categorised Mr Allen's death as "suspected
33 evidence of bias crime".
34

35 In all the circumstances, it is submitted that there
36 was more than sufficient evidence for Strike Force
37 Parrabell to have characterised Mr Allen's death as
38 evidence of bias crime, as opposed to giving it a weaker
39 characterisation of suspected evidence of bias crime, as it
40 did.
41

42 This submission is made noting in particular the
43 following factors, Commissioner: first, Mr Allen's
44 sexuality; second, the location of his assault, at a beat;
45 third, the evidence that Mr Allen had previously used beats
46 in the area; and, lastly, Mr Allen's contemporaneous report
47 that he was assaulted for using the beat.

1
2 Counsel Assisting makes the following submissions as
3 to bias, Commissioner. There is reason to suspect that
4 Mr Allen met his death as a consequence of an assault
5 motivated by LGBTIQ bias. One possible circumstance is
6 that Mr Allen was assaulted by a group of people while he
7 was attending Alexandria Park to use the toilet block as
8 a beat. If so, there would be strong reason to suspect
9 that the assault was motivated by LGBTIQ bias.

10
11 Another possibility is that Mr Allen met his death as
12 a consequence of his suspected involvement in the sexual
13 abuse of young boys and production of child abuse material.
14 If this was the motivation, it would not exclude LGBTIQ
15 bias, bearing in mind that some offenders wrongly conflate
16 homosexuality with paedophilia.

17
18 As noted in our submissions and elsewhere in the
19 evidence before the Inquiry, this conflation is offensive
20 and has caused substantial harm to the queer community.
21 Such a conflation in the mind of an offender will still be
22 a crime involving gay hate bias.

23
24 Separately, Mr Allen's dealings in drugs apparently
25 resulted in his possession of a large amount of cash, which
26 was kept in his home. There was no evidence, however, that
27 anything was stolen from Mr Allen's home after the attack
28 on him, nor that this was the motivation for the assault on
29 him. It is possible that Mr Allen carried a quantity of
30 cash on his person or in his car and that he may have been
31 assaulted and robbed as a result. However, there is
32 conflicting evidence as to whether Mr Allen was robbed
33 during his attack. Mr Allen advised Peter Martin that he
34 had been able to keep hold of his money during his assault.
35 However, he told Mr Berwick that his assailants "took my
36 money and keys". The suggestion that Mr Allen's keys were
37 taken is inconsistent with Mr Martin having found them on
38 the road.

39
40 More will be said about the various motivations behind
41 Mr Allen's fatal attack in confidential submissions so as
42 to avoid any prejudice to possible future investigations,
43 in line with this Inquiry's Terms of Reference.

44
45 I now turn to our submissions as to manner and cause
46 of death. It is submitted that the coronial finding as to
47 the manner and cause of Mr Allen's death remains

1 appropriate, Commissioner, that is, that Mr Allen died on
2 29 December 1988 of the effects of head injuries sustained
3 on the night of 28 December 1988 when he was beaten by
4 persons unknown in Alexandria Park.

5
6 Those are my submissions, Commissioner.

7
8 THE COMMISSIONER: Thank you.

9
10 MR SHORT: Commissioner, the Commissioner of Police seeks
11 to reserve her position with a view to relying on written
12 submissions.

13
14 THE COMMISSIONER: All right, thank you. When I receive
15 those, I will report on this matter in due course.
16 Thank you both very much. I will now adjourn.

17
18 **AT 10.45AM THE SPECIAL COMMISSION OF INQUIRY WAS ADJOURNED**
19 **ACCORDINGLY**

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