



Special Commission of Inquiry into LGBTIQ hate crimes

SUBMISSIONS OF COUNSEL ASSISTING

24 March 2023

IN THE MATTER OF SAMANTHA RAYE

Introduction

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

Summary of matter

Date and location of death

2. Samantha Raye's body was found in a cave below Hornby Lighthouse, South Head, at around 9:30am on 20 March 1989.
3. The precise date of Ms Raye's death is unclear. Ms Raye had not been seen or heard from by her friends or doctors after 11 March 1989. A note indicating that she was going to "the lighthouse" was present at her flat (in Macleay Street, Potts Point) from at least 17 March 1989.
4. The time of death was estimated at autopsy to be two to three days prior to the post-mortem examination on 22 March 1989 – i.e. between approximately 7:00pm on 19 March 1989 and 7:00pm on 20 March 1989.
5. Dr Linda Iles, a forensic pathologist who was requested by the Inquiry to review the original autopsy report, considered that estimate to be "not unreasonable", but noted that the post-mortem observations could not preclude Ms Raye's death being closer to the last time she was known to be alive.¹

¹ Expert report of Dr Linda Iles, received 3 March 2023, 8 (SCOI.82545).

Special Commission of Inquiry into LGBTIQ hate crimes

Circumstances of death

6. Ms Raye's body was found in a cave below Hornby Lighthouse, South Head. An empty bottle of insulin, a needle and a syringe were found next to her body, with a pack of Valium tablets found on her person.
7. On or prior to 17 March 1989 (when her friend Wayne Hurrell saw the note in her apartment), Ms Raye had left a brief note on her mantelpiece² which read, "At lighthouse. Will be back???", suggesting she went to the location of her death of her own accord.
8. There were no significant injuries or signs of violence to her body that would suggest an assault or a homicide. No anogenital injury is described. On the evidence, Ms Raye's death was not the result of a homicide. Rather, she died as a consequence of bilateral bronchopneumonia.³
9. It is possible that mild meningoencephalitis also contributed to her death.⁴
10. In Dr Iles' opinion, the development of bronchopneumonia in an otherwise healthy individual suggests "a period of central nervous system depression/obtundation prior to death." ("Obtundation" refers to a dulled or reduced level of alertness or consciousness.) There is circumstantial evidence to suggest this *may* have been attributable to insulin-induced hypoglycaemia, or intoxication with central nervous system depressing agents; however, the medical evidence is unable to confirm the mechanism of any central nervous system depression.⁵
11. Ms Raye had a history of severe depression and suicidal ideation. Her mental health had declined in the months prior to her death, seemingly due, at least in part, to harassment and abuse by a neighbour in her building. A number of her treating doctors indicated their opinion that Ms Raye was capable of dying by suicide and that she was extremely fragile immediately prior to her death.⁶ However, it is impossible to determine on the evidence available whether, even if insulin or another substance was self-administered by Ms Raye, she did so with an intention of dying by suicide.

Findings of post-mortem examination

12. At 7:00pm on 22 March 1989, Dr Peter Bradhurst (Director, Division of Forensic Medicine) conducted the autopsy on Ms Raye's body. His post-mortem report is dated 23 June 1989.

² Statement of Constable William Wilcher dated 8 May 1989, [8] (SCOI.11038.00027). By contrast, in his statement to police, Mr Hurrell describes the note as being on a side table in Ms Raye's living room: statement of Wayne Hurrell, dated 20 March 1989, [9] (SCOI.11038.00030).

³ Expert report of Dr Iles (n 1) 8.

⁴ *Ibid.*, 9.

⁵ *Ibid.*, 8-9.

⁶ Statement of Dr Helen Borman, dated 12 April 1989, [6]-[7], [9] (SCOI.11038.00034); statement of Dr Peter Joseph Steinheuer, dated 14 April 1989, [9] (SCOI.11038.00035); statement of Dr Edward Grieve, dated 3 May 1989, [4] (SCOI.11038.00025).

Special Commission of Inquiry into LGBTIQ hate crimes

13. In that report, Dr Bradhurst found no significant injuries or signs of violence.⁷ However, he noted that:
 - a. Sections of Ms Raye’s lungs showed an acute bronchopneumonia affecting both lungs. The changes in the left lung were florid and appeared as a lobar pneumonia. In addition, the left lung had numerous gram positive cocci in pairs, short chains or clusters, which suggested streptococci.⁸
 - b. Microscopic examination of Ms Raye’s brain revealed cell changes that were consistent with a viral infection of mild meningoencephalitis.⁹
14. Toxicology found insulin in Ms Raye’s blood (21 micro units per mL) and glucose in her urine (0.90 millimole per litre). The plastic syringe and jar found near Ms Raye’s body were both found to contain insulin.¹⁰
15. Dr Bradhurst recorded the direct cause of death as “acute bilateral bronchopneumonia and viral meningoencephalitis”. Noted as an antecedent cause of death was “possible use of insulin”.
16. In respect of “Other significant conditions contributing to the death but not relating to the disease or condition causing it”, Dr Bradhurst entered the two words “Transexual, Depression”.¹¹
17. Dr Bradhurst’s report was reviewed by Dr Iles, discussed below at [133]-[138].

Persons of interest

18. There are no individuals who are to be regarded as persons of interest.

Indicators of LGBTIQ status or bias

19. Ms Raye was a person with intersex characteristics – that is, she had innate variations of sex characteristics that did not fit medical or social norms for female or male bodies. Specifically, one of her treating doctors, Dr Steinheuer, recorded that Ms Raye was born with “a small non-operational penis and female internal sex organs”.¹²
20. Ms Raye was assigned male at birth and raised as a boy by her parents in New Zealand.

⁷ Post-mortem report of Dr Peter Bradhurst, dated 23 June 1989, 2 (SCOI.11038.00006).

⁸ Ibid, 4.

⁹ Microscopic examination of brain, dated 12 May 1989 (SCOI.11038.00009).

¹⁰ Toxicology report, dated 24 May 1989 (SCOI.11038.00010).

¹¹ Post-mortem report of Dr Peter Bradhurst (n 77), 1.

¹² Statement of Dr Peter Joseph Steinheuer (n 66), [8].

Special Commission of Inquiry into LGBTIQ hate crimes

21. At some point prior to or around 1980, she began to publicly identify as female and lived as Samantha Raye.¹³ Ms Raye commenced her transition process and, in 1988, she underwent gender affirming surgery.¹⁴
22. There is evidence that during the course of her life Ms Raye was subject to various forms of abuse, stigmatisation, discrimination and other unpleasant and/or hostile behaviour (see below at [86]-[92], [122]-[131]). The strong likelihood is that such experiences contributed to her poor mental health and suicidal ideation.¹⁵
23. However, Ms Raye’s death is not considered to be a death “potentially motivated by gay hate bias” within category A of the Terms of Reference, because there is no evidence that it was the result of a homicide or that a second person was involved in the death.

Exhibits: availability and testing

24. The post-mortem report refers to the blocks and slides prepared from the histological specimens. These slides have been requested by the Inquiry: see below at [48]-[50].
25. Police collected and caused the testing of the syringe and bottle located next to Ms Raye’s body; both were found to contain insulin: see above at [14].

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

26. On 30 June 1989, Coroner Waller sitting in the Coroners Court at Glebe dispensed with an inquest into Ms Raye’s death. The handwritten notation on the coroner’s action cover sheet dated 30 June 1989 states:

? O/D insulin or death by natural cause. No one seeks inquest. No chance of finally establishing manner of death. IDW [I dispense with].¹⁶

27. Ms Raye’s death certificate is dated 19 April 1989. The entry in the field for “Cause of death” reads:

Acute bilateral bronchopneumonia and viral meningoencephalitis.
Possible use of insulin.
Transexual depression.¹⁷

¹³ Statement of Cliff Connors, dated 12 April 1989, [4] (SCOI.11038.00033).

¹⁴ Letter from Dr Helen Borman to the Housing Commission, dated 1 February 1989 (SCOI.11038.00014). For further details, see Post-mortem report of Dr Peter Bradhurst (n 77), 2.

¹⁵ See Morgan Carpenter, “Discrimination”, *Intersex Human Rights Australia* (Post, 24 February 2021)

<<https://ihra.org.au/discrimination/>>; Exhibit 2, Tab 10, statement of Dr Eloise Brook, dated 15 November 2022 (SCOI.77309).

¹⁶ Coroners Court (Police Prosecutors) – Action Cover Sheet (SCOI.11038.00002).

¹⁷ Death certificate – Samantha Raye, dated 6 July 1989 (SCOI.73943).

Special Commission of Inquiry into LGBTIQ hate crimes

28. The “Cause of death” field bears a handwritten notation, above the words “By whom certified”, as follows: “[initials] 6.7.89”. The handwritten initials are illegible, but do not correspond to those of Dr Bradhurst on the post-mortem report dated 23 June 1989.
29. The phrase “transsexual depression” is not found in Dr Bradhurst’s 23 June post-mortem report. Nor did Dr Bradhurst include such a concept (“transsexual depression”) as a cause of death. Rather, as noted above, Dr Bradhurst nominated two separate “conditions”, namely “Transsexual,” and “Depression”, as “Other significant conditions contributing to the death but not relating to the disease or condition causing it”. The presence of the phrase “transsexual depression” in the death certificate is the subject of comment below at [138].
30. Somewhat surprisingly, given the findings at the autopsy as to time of death being two to three days prior to the post-mortem examination on 22 March 1989, Ms Raye’s date of death on her death certificate is listed as 12 March 1989. That date also appears on the coroner’s action cover sheet:

Name of deceased:	RAYE, Samantha
Death	21-3-89
Identification	Hurrell – Police – P.M.
Manner	Natural Causes
Cause	Acute Bilateral bronchopneumonia and viral meningoencephalitis
Time & Date	On or about 12-3-89
Place	South Head near Hornby Lighthouse ¹⁸

31. This is the only reference to a date of death of 12 March 1989 of which the Inquiry is aware, other than Ms Raye’s death certificate. Correction of Ms Raye’s date of death on her death certificate is the subject of a recommendation: see below at [144].

Criminal proceedings

32. No criminal proceedings were ever instituted against any person in relation to Ms Raye’s death.

Features of /concerns with original police investigation

33. There was little investigation into Ms Raye’s movements prior to her death. There are almost eight days where Ms Raye is unaccounted for.
34. Although Ms Raye was reported as a missing person at Kings Cross Police Station on 19 March 1989, by her friend Mr Hurrell and Ms Raye’s social worker (known to Mr Hurrell only as “Hanna” but likely

¹⁸ Coroners Court (Police Prosecutors) – Action Cover Sheet (n 16).

Special Commission of Inquiry into LGBTIQ hate crimes

to be Hanna Hedler),¹⁹ no record of this report appears to have been kept (or perhaps was ever made). A response to a summons issued by the Inquiry to NSW Police Force (**NSWPF**) revealed that neither the Missing Persons Registry nor State Archives holds any copy of that report.²⁰ Accurate and reliable recording of any missing person report is obviously essential, but would appear not to have occurred in this case. (In that regard the Inquiry is aware that there have been significant reforms to police practices in relation to missing persons in subsequent decades, particularly in response to coronial criticism of the previous Missing Persons Unit.)²¹

35. Police also did not take a statement from Ms Hedler, notwithstanding that she appeared to have a close relationship with Ms Raye and that, since she was interviewed by journalists after Ms Raye's death, she was presumably available.²²

Strike Force Parrabell

Use of the Bias Crimes Indicators Form

36. In the Bias Crimes Indicators Review Form (**BCIF**),²³ the Strike Force Parrabell officers answered "No Evidence of Bias Crime" to nine of the ten indicators. The exception is indicator 5 ("Previous existence of bias crime incidents"). For that indicator, the Strike Force Parrabell officers answered "Insufficient Information" – even though they acknowledged, under "Comment" in respect of that indicator, that Ms Raye had been "subjected to considerable harassment by a neighbour at the units where she lived and this was believed to be bias related". The same acknowledgement also appears both in the response to indicator 1 ("Differences") and in the concluding "Summary of Findings" box.
37. The completed form includes numerous positive assertions that Ms Raye died by suicide, notwithstanding both the ambiguities in the medical evidence, and that the coroner, when dispensing with an inquest, had indicated that whether death had been caused by natural means or suicide was uncertain, and that there was "no chance of finally establishing manner of death." It also does not engage with the conflicting evidence as to whether Ms Raye was diabetic (as to which, see below at [42], [71]-[73] and [115]).

¹⁹ See Brett McCarthy, 'Half man, half woman's tragedy', *Daily Mirror*, 9 May 1989 (SCOI.11038.00019).

²⁰ Email from Office of the General Counsel, NSW Police Force, to Solicitor Assisting the Inquiry, dated 7 October 2022 (SCOI.82495).

²¹ See *Inquest into the suspected deaths of missing persons Ursula Barwick, Lionel Daveson, Gary Jones and Christof Meier* (Findings of Deputy State Coroner Lee, Coroners Court of NSW, 2 November 2021), [21.1]-[21.12].

²² See Brett McCarthy, 'Half man, half woman's tragedy' (n 19).

²³ Bias Crimes Indicators Review Form – Samantha Raye, dated 3 March 2017 (SCOI.32107).

Special Commission of Inquiry into LGBTIQ hate crimes

Results of Strike Force Parrabell

(a) The “General Comment” and “Summary of Findings” boxes at the end of the BCIF

38. The “General Comment” section in respect of indicator 1, at page 5 of the form, asserts that a “handwritten suicide note” was located within Ms Raye’s residence. The characterisation of the note in Ms Raye’s flat as a “suicide note” is arguably open but by no means necessarily apt. Yet the note is said, in the BCIF, to have “confirmed the opinion of not only Police but all medical professionals involved in [her] treatment” that Ms Raye had died by suicide.²⁴
39. As to the “considerable harassment” by a neighbour (including by urinating outside her front door and throwing acid through her window), which “was believed to be bias related”,²⁵ the BCIF asserts only that it “serves to demonstrate one of the factors which led [Ms Raye] to committing suicide and there is no suggestion that any other person or group was responsible for her death”.
40. The “Summary of Findings” repeats much of the content of earlier parts of the form. It concludes: “As per the initial investigation, it has been shown that this case is clearly a suicide and is not a gay bias related homicide”.²⁶ The overall categorisation of the case is “No evidence of bias crime”.

(b) Case Summaries

41. The Strike Force Parrabell case summary for this matter reads as follows:

Identity: Samantha Raye was 30 years old at the time of her death.

Personal History: Ms Raye was named at birth, Frederick Roy Lethbridge. She was born with intersex characteristics. Ms Raye was raised as a boy by her parents in New Zealand before emigrating to Australia in the mid-1970s to begin a new life living as a female. In 1988, Ms Raye underwent surgery to transition from male to female. Ms Raye suffered from a number of medical conditions, including type one diabetes requiring daily insulin injections, and asthma which required Ventolin and an oxygen mask.

Location of Body/Circumstances of Death: Ms Raye’s body was located in a cave above the high-water mark at South Head, immediately below Hornby Lighthouse. An empty bottle of insulin was found next to her body as well as a book of handwritten love poems. South Head and the Hornby Lighthouse were significant to Ms Raye as she often attended the area to sit, reflect and write poetry. Ms Raye left a brief note which read, ‘*At lighthouse. Will be back?????*’ which was discovered by her friend at the Hornby Lighthouse. Ms Raye had previously informed many people of her intention to commit suicide if her situation in life did not improve. All witnesses interviewed indicated that Ms Raye was capable of taking her own life, and that she was extremely fragile, both mentally and physically, immediately prior to her death.

²⁴ Ibid, 3, 5.

²⁵ Ibid, 4, 5, 9, 10, 17.

²⁶ Ibid, 17.

Special Commission of Inquiry into LGBTIQ hate crimes

Sexual Orientation/Psychological Health: Ms Raye identified as heterosexual.

Coroner/Court Findings: The post mortem did not reveal any signs of violence to Ms Raye’s body. An Inquest was dispensed with by the Coroner, who found that Ms Raye most likely died of natural causes or suicide.

SF Parrabell concluded there was no evidence of a bias crime²⁷

42. This case summary differs starkly, in one crucial respect, from the BCIF. The case summary refers to Ms Raye suffering “type one diabetes requiring daily insulin injections”, whereas the “Summary of Findings” in the BCIF states that despite having injected a dose of insulin intravenously shortly before her death, Ms Raye was “not a diabetic which would have led to an overdose and her subsequent death”.

(c) Academic review

43. The review by the Flinders academics categorised this case as “No evidence of bias”.²⁸

Investigative and other steps undertaken by the Inquiry

Attempts to locate and contact family members and friends

44. The Inquiry was able to locate and contact Wayne Hurrell. On 14 October 2022, Inquiry staff had a telephone conversation with Mr Hurrell and advised him of the work of the Inquiry.

Summonses issued

45. A summons to the NSWPF was issued on 18 May 2022 for, *inter alia*, all NSWPF investigative material, including any material held or created by the Unsolved Homicide Team, in relation to the death of Ms Raye (summons NSWPF1). A hard copy of the investigative file was produced on 6 August 2022.

46. A further summons was issued to NSWPF on 26 September 2022 requesting a copy of the missing person report made at Kings Cross Police Station by Mr Hurrell and Ms Hedler on or around 19 March 1989 in relation to Ms Raye’s disappearance (summons NSWPF19).²⁹ On 7 October 2022, NSWPF advised by email that neither the Missing Persons Registry nor State Archives holds any copy of that report.³⁰

²⁷ Exhibit 6, Tab 49, Strike Force Parrabell Case Summaries – Samantha Raye, 16 (SCOI.76961.00014).

²⁸ Ibid.

²⁹ Letter from Solicitor Assisting the Inquiry to Office of the General Counsel, NSW Police Force, re: Request for document, dated 26 September 2022 (SCOI.82493); Summons to produce to NSW Police Force (NSWPF19) dated 26 September 2022 (SCOI.82491).

³⁰ Email from Office of the General Counsel, NSW Police Force, to Solicitor Assisting the Inquiry, dated 7 October 2022 (n 2020).

Special Commission of Inquiry into LGBTIQ hate crimes

47. A summons to the NSW Registry of Births, Deaths and Marriages was issued on 16 September 2022 requesting any birth, change of name or death certificate for Ms Raye (summons BDM3). A death certificate was produced on 21 September 2022, as well as a note certifying that no birth certificate had been located.

Further searches for exhibits

48. Contact was made with NSW Health Pathology – Forensic Medicine (**Forensic Medicine**), by way of a letter dated 25 February 2023, in order to ascertain whether Forensic Medicine held the blocks and slides of histological specimens retained from the original autopsy performed on Ms Raye. That letter also enclosed a summons requesting the production of those slides on an urgent basis (summons DOFM4). This was done in order to provide potential assistance to the expert forensic pathologist who was briefed by the Inquiry to provide an opinion (see below).
49. On 27 February 2023, a Forensic Medicine representative responded by email to the effect that the Department’s practice is not to provide original slides and blocks to third parties, but rather to obtain re-cuts of the blocks and provide those slides to the requesting third party.
50. The Inquiry has requested that re-cuts of the blocks be prepared, and slides be provided to Dr Iles. Supplementary submissions will be prepared in relation to any matter arising after provision of the slides, as required.

Professional opinions obtained

51. The Inquiry sought and obtained a report dated 3 March 2023 from Dr Linda Iles, forensic pathologist and Head of Forensic Pathology Services at the Victorian Institute of Forensic Medicine, in which she addressed questions posed to her by a letter of instruction of 25 January 2023. Those questions concerned the adequacy of the post-mortem investigations conducted in relation to Ms Raye, and her views as to the estimated time, manner and medical cause of Ms Raye’s death. Dr Iles’ findings are addressed below at [133]-[138].
52. The Inquiry also sought and obtained a report dated 19 January 2023 from Professor John Carter, an endocrinologist, in which he addressed questions posed to him by a letter of instruction of 21 December 2022. Those questions concerned whether Ms Raye’s blood sugar level was indicative of insulin use; and whether the level of insulin recorded in Ms Raye’s blood and/or urine contributed to her death, either alone or in conjunction with her severe lung infection and/or viral meningoencephalitis. Professor Carter’s findings are addressed below at [132].

Special Commission of Inquiry into LGBTIQ hate crimes

Other sources of information

53. On 12 October 2022, Inquiry staff met with Dr Eloise Brook of The Gender Centre, who gave valuable advice as to how the Inquiry might consider approaching transgender issues such as are raised in this case. Contact was also made with Morgan Carpenter of Intersex Human Rights Australia, who provided assistance in relation to intersex issues, including as to appropriate terminology and language.

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

54. Consistent with the submissions at [33]-[35] above, Police should have:
- a. accurately recorded and archived the record of the missing person report made by Mr Hurrell and Ms Hedler at Kings Cross Police Station on 19 March 1989;
 - b. obtained a statement from Ms Hedler; and
 - c. conducted further investigation into Ms Raye's movements for the eight or so days leading up to her death.

Results of investigative and other steps undertaken by the Inquiry

55. This part of the submission sets out key matters arising from the Inquiry's consideration of the evidence and the conclusions that it is suggested can be drawn from the evidence.

Ms Raye's personal background

56. Ms Raye was born on 22 January 1958 person in New Zealand.
57. As noted above, Ms Raye was born with intersex traits. She was assigned male at birth and raised as a boy by her parents in New Zealand.
58. It appears that Ms Raye had a traumatic childhood. She disclosed to her psychiatrist that [REDACTED] She stated that she had a scar on her inner leg which was caused by this attack.³¹ Her social worker, Ms Hedler, is quoted in a media article as saying that "her father wanted her to be a boy so much that he beat it into her."³²

³¹ Statement of Dr Helen Borman (n 66) [8].

³² Brett McCarthy, 'Half man, half woman's tragedy' (n 19).

Special Commission of Inquiry into LGBTIQ hate crimes

59. In the mid-1970s, Ms Raye emigrated to Australia. In around 1976, it appears that she was living in Sydney as “Mark Oliver”.³³ At some point prior to or around 1980, she began to publicly identify as female, and to live as Samantha Raye.³⁴ In 1988, Ms Raye underwent gender affirming surgery.³⁵
60. Ms Raye was a popular singer and dancer in the Kings Cross area in the early 1980s. Unfortunately, in 1984 at the age of 26, Ms Raye was attacked [REDACTED], which brought an end to her career as an entertainer.³⁶
61. At the time of her death, aged 31, Ms Raye was a pensioner.³⁷ She lived in a Housing Commission flat at [REDACTED] Macleay Street, Potts Point.³⁸ It appears that Ms Raye was close with Ms Hedler, who is referred to in the police brief as a “social worker”³⁹ and a volunteer worker at the Wayside Chapel.⁴⁰ Ms Hedler told reporters after Ms Raye’s death that Ms Raye was “a talented artist and poet who wrote continually about her search for her real self”.⁴¹
62. According to her close friend Mr Hurrell, Ms Raye was estranged from her family. In February 1989, she designated Mr Hurrell as her next of kin.⁴² Constable William Wilcher, the officer in charge of the investigation (**OIC**), managed to contact Ms Raye’s father in New Zealand after her death, and he advised that the family did not seek an inquest.⁴³
63. Mr Hurrell also reported that Ms Raye did not have many friends. Other acquaintances described Ms Raye as “a quiet and withdrawn person, who was very insular”⁴⁴ and “a loner”.⁴⁵
64. However, Ms Raye did have connections to some groups, and to places that she frequented. In the 1970s she met Cliff Connors through the Metropolitan Community Church, and in early 1987 she joined another church that Mr Connors had formed. Mr Connors said that in that time, he had quite a bit to do with Ms Raye and got to know her more personally and advised her often.⁴⁶ However, by July 1988,

³³ Statement of Cliff Connors (n 1313), [3].

³⁴ Ibid, [4].

³⁵ Letter from Dr Helen Borman to the Housing Commission (n 1414).

³⁶ Brett McCarthy, ‘Half man, half woman’s tragedy’ (n 19).

³⁷ Letter from Dr Berlin to the Department of Housing dated 10 January 1989 (SCOI.11038.00012).

³⁸ P79A Report of Death to Coroner dated 21 March 1989 (SCOI.11038.00004).

³⁹ Police do not appear to have contacted Ms Helder. She is only referenced in Hurrell’s statement and in a media report from the time.

⁴⁰ Brett McCarthy, ‘Half man, half woman’s tragedy’ (n 19).

⁴¹ Ibid.

⁴² Statement of Wayne Hurrell (n 2), [11].

⁴³ Statement of Constable William John Wilcher (n 2), [10].

⁴⁴ Statement of Cliff Connors (n 1133), [4].

⁴⁵ Statement of Bruce Day, dated 12 April 1989,[7] (SCOI.11038.00032).

⁴⁶ Statement of Cliff Connors (n 1313), [5].

Special Commission of Inquiry into LGBTIQ hate crimes

Ms Raye was dropped as a member by the church, after she stopped attending and did not reply to attempts to communicate with her.⁴⁷

65. Ms Raye would also irregularly spend time at PJ's coffee shop in Premier Lane, Darlinghurst, which was funded by the St John's Church and was a popular place within the LGBTIQ community. According to Bruce Day, who volunteered at PJ's, Ms Raye would talk to patrons from the church but did not seem to fit in with the transgender people who attended PJ's on a regular basis.⁴⁸
66. The Strike Force Parrabell case summary states that Ms Raye identified as heterosexual.⁴⁹ On the material available to the Inquiry, it appears that this was the case, although there is no conclusive evidence as to Ms Raye's sexuality. Ms Hedler told reporters of Ms Raye's wish to find a male companion, and police found letters from men responding to advertisements in *Campaign* magazine in Ms Raye's flat. Mr Hurrell told police that in the three years he knew Ms Raye, he never heard her talk of or refer to a sexual partner.⁵⁰ Mr Hurrell and Ms Raye did not have a physical relationship, although, according to Mr Hurrell, this was something that Ms Raye hinted at wanting on a few occasions.⁵¹
67. The OIC asserts in his statement that Ms Raye "used to become very aggressive upon having her advances rejected".⁵² The Inquiry has found no evidence to support that claim.

Medical history: treating practitioners

68. Ms Raye had a complex medical history. Her treating practitioners included:
- a. Dr Edward Grieve, General Practitioner (**GP**), Woollahra. Dr Grieve started treating Ms Raye in 1986 and saw her two to three times per month for two years.⁵³ Dr Grieve last saw Ms Raye on 26 October 1988.⁵⁴ Dr Grieve provided a statement to police as part of the coronial investigation.
 - b. Dr Peter Steinheuer, GP, Potts Point. Dr Steinheuer started treating Ms Raye in May 1987. He saw Ms Raye fairly consistently between December 1988 and March 1989; initially once every

⁴⁷ Ibid, [9].

⁴⁸ Statement of Bruce Day (n 4545), [5].

⁴⁹ Strike Force Parrabell Case Summaries (n 2727), 16.

⁵⁰ Statement of Wayne Hurrell (n 2), [5].

⁵¹ Ibid, [12].

⁵² Statement of Constable William John Wilcher (n 2), [14].

⁵³ Statement of Dr Edward Grieve (n 66), [3].

⁵⁴ Ibid.

Special Commission of Inquiry into LGBTIQ hate crimes

fortnight, and then once a week just before her death.⁵⁵ Dr Steinheuer provided a statement as part of the coronial investigation.

- c. Dr Ruth Berlin, GP, Potts Point. Dr Berlin wrote to the Department of Housing on Ms Raye's behalf in January 1989.⁵⁶ Dr Berlin and Dr Steinheuer were at the same medical practice and consulted each other about Ms Raye.⁵⁷
- d. Dr Helen Borman, consultant psychiatrist, Edgecliff. Dr Borman started treating Ms Raye on 20 January 1989, on a referral of severe depression with suicidal thoughts.⁵⁸ Dr Borman also provided a statement as part of the coronial investigation.
- e. Dr AW Steinbeck, consultant physician and endocrinologist. Ms Raye had been seeing Dr Steinbeck for some months as at September 1985.⁵⁹

Medical history: Physical health

- 69. There is a lack of clarity in relation to the nature and severity of Ms Raye's physical health problems, as a result of some disparities and divergences in the evidence.
- 70. It is clear that Ms Raye suffered from asthma, which required Ventolin and an oxygen mask.⁶⁰ Her GPs, Dr Grieve and Dr Steinheuer, both say that they treated Ms Raye for "mild" asthma.⁶¹ Other reports indicate that Ms Raye's asthma was actually "severe".⁶² According to Mr Hurrell, Ms Raye was not very fit and would be out of breath if she had to walk any great distance.⁶³
- 71. According to both the statement of her friend Mr Hurrell, and the P79A Report of Death to the Coroner,⁶⁴ Ms Raye suffered from type one diabetes, which required daily insulin injections.
- 72. However, following Ms Raye's death, the OIC spoke to Ms Raye's treating doctors and found that none had any knowledge of Ms Raye being a diabetic or of ever prescribing insulin. Further enquiries were made with the chemists along Darlinghurst Road, Victoria Road and the area around Ms Raye's home

⁵⁵ Statement of Dr Peter Joseph Steinheuer (n 66), [4].

⁵⁶ Letter from Dr Berlin to the Department of Housing (n 3737).

⁵⁷ Statement of Dr Peter Joseph Steinheuer (n 66), [4].

⁵⁸ Statement of Dr Helen Borman (n 66), [4].

⁵⁹ Letter from Dr AN Steinbeck to Janelle Ford, dated 20 September 1985 (SCOI.11038.00013).

⁶⁰ Cf Dr Steinheuer who said that Ms Raye was prescribed Ventolin in the past and only used it occasionally: Statement of Dr Peter Joseph Steinheuer (n 66), [7].

⁶¹ Statement of Dr Edward Grieve (n 66), [3]; Statement of Dr Peter Joseph Steinheuer (n 66), [7].

⁶² P79A Report of Death to Coroner (n 3838).

⁶³ Statement of Wayne Hurrell (n 2), [6].

⁶⁴ Ibid; P79A Report of Death to Coroner (n 3838).

Special Commission of Inquiry into LGBTIQ hate crimes

address, none of whom remembered or had a record of supplying insulin, particularly Mixtard, to Ms Raye. All of the chemists, except two, knew Ms Raye from photographs shown to them.

73. According to Dr Grieve, he conducted tests on Ms Raye which did not indicate any problems with blood sugar.⁶⁵ Similarly, Dr Steinheuer told police that there was no evidence of Ms Raye being diabetic or requiring insulin of any type. He said it was inconceivable that Ms Raye would not have at any stage informed him of her diabetes or required treatment for it.⁶⁶

Medical history: Gender affirming surgery and related healthcare

74. Ms Raye was prescribed Primogyn and Estigyn (estrogen hormones) by her general practitioners.⁶⁷
75. In October 1988, she underwent gender-affirmation surgery at a private hospital in Earlwood.⁶⁸
76. Ms Raye was also under the care of Dr T Kennedy at the Gender Dysphoria Clinic, which was attached to the Department of Adult Psychiatry at Monash Medical Centre.⁶⁹
77. A media article from the time of Ms Raye's death records that Ms Raye's social worker, Ms Hedler, told the reporter that Ms Raye's doctor would not perform the final part of her gender affirming surgery due to her poor living conditions.⁷⁰

Medical history: Mental health

78. Ms Raye had a history of anxiety neurosis, adjustment disorder and severe depression with suicidal thoughts,⁷¹ and at an unknown date between May 1987 and April 1989 had been prescribed Valium by Dr Steinheuer.⁷²
79. There is some evidence (albeit inconclusive) of two suicide attempts in 1987 and 1988.
- a. In October 1987, Ms Raye stabbed herself between the eyes with a letter opener. Mr Connors regarded this as a suicide attempt.⁷³ The wound became infected and Ms Raye sought treatment from her GP Dr Grieve. She initially stated that the wound was caused by an ingrown

⁶⁵ Statement of Dr Edward Grieve (n 66), [3]. According to Dr Grieve, Ms Raye said she was seeing Drs Mason and Pannock from a practice in Centrepoin in the city. Dr Grieve made inquiries to speak with those doctors, with a negative result.

⁶⁶ Statement of Dr Peter Joseph Steinheuer (n 66), [5].

⁶⁷ Statement of Dr Edward Grieve (n 66), [3]; Statement of Dr Peter Joseph Steinheuer (n 66), [7].

⁶⁸ Dr Borman refers to the surgery occurring in June 1988 – however, the evidence of Mr Hurrell and Mr Day (who knew Ms Raye at the time) was that the surgery was in October 1988.

⁶⁹ Letter from Dr AN Steinbeck to Janelle Ford (n 5959); Letter from Dr T Kennedy to Coroners Court, dated 18 July 1990 (SCOI.11038.00008).

⁷⁰ Brett McCarthy, 'Half man, half woman's tragedy' (n 1919).

⁷¹ Statement of Dr Peter Joseph Steinheuer (n 66), [5].

⁷² Ibid, [7].

⁷³ Statement of Cliff Connors (n 1313), [8].

Special Commission of Inquiry into LGBTIQ hate crimes

hair before disclosing her self-harm. Dr Grieve stated that the wound was consistent with a sharp object, but was not sure if Ms Raye suffered the wound as a result of a suicide attempt.⁷⁴

- b. Mr Hurrell referred to Ms Raye attempting suicide in June 1988 by not taking her insulin and taking another drug. He said that police from Kings Cross Police Station had to kick in Ms Raye's door and transport her to hospital.⁷⁵ Enquiries made by the OIC found no records at St Vincent's Hospital, Sydney Hospital or Prince of Wales Hospital regarding any suicide attempt by Ms Raye, or any records at King's Cross Police Station regarding this incident. Mr Hurrell said that prior to this, Ms Raye had spoken to him about suicide, but did not speak of it again after June 1988.⁷⁶
80. In the months prior to her death, Ms Raye's mental health deteriorated significantly. Her friends and acquaintances referred to her becoming more depressed and withdrawn.⁷⁷ One acquaintance, Mr Day, said that Ms Raye was so depressed during this time that he thought she might be dying.⁷⁸
 81. At the time of her death, Ms Raye was under the specialist care of her psychiatrist, Dr Borman. Dr Borman considered that Ms Raye's depression was "largely reactive" to the following issues:
 - a. Multiple medical complications from her operation in 1988;
 - b. Anti-social behaviour directed at Ms Raye by her neighbours (see further below);
 - c. Ms Raye's unhappiness with where she was living. Dr Borman described Ms Raye's living situation (in the Housing Commission flat in Macleay Street, Potts Point) as "appalling". Ms Raye – who was a "clean living non-addict" – was "surrounded by excessive hostility, alcoholism and drug addiction"; and
 - d. Ms Raye's feelings of rejection and discrimination by the Housing Commission, who had delayed providing her with new accommodation.⁷⁹
 82. According to Dr Borman, all these factors caused Ms Raye to lapse into severe depression. When Ms Raye went to therapy with Dr Borman, she wept openly and said, "I can't stand this much longer, I must get out of there".⁸⁰ Dr Borman also states that in the weeks prior to her death, Ms Raye spoke of

⁷⁴ Statement of Dr Edward Grieve (n 66), [3].

⁷⁵ Statement of Wayne Hurrell (n 2), [7].

⁷⁶ Ibid.

⁷⁷ Ibid; Statement of Cliff Connors (n 1313), [8]-[9].

⁷⁸ Statement of Bruce Day (n 4545), [7].

⁷⁹ Letter from Dr Helen Borman to the Housing Commission (n 1414).

⁸⁰ Statement of Dr Helen Borman (n 66), [6].

Special Commission of Inquiry into LGBTIQ hate crimes

suicide and said, “I’ll have to suicide if things don’t get better”. According to Dr Borman, Ms Raye refused any medication for her depression.⁸¹

83. All of Ms Raye’s treating doctors were of the view that Ms Raye’s mental health was such that death by suicide was a possibility.
- a. Dr Borman said that she had no doubt that Ms Raye would have taken her own life. She spoke of suicide to her often and was in the frame of mind to take her own life.⁸²
 - b. Her general practitioner, Dr Grieve, stated that Ms Raye was “very unstable psychologically” and he had “no doubt that [Raye] would take her own life, but she would make a show of the event”.⁸³
 - c. Dr Steinheuer said that he thought that Ms Raye was capable of taking her own life, but he would have expected her to give some forewarning as to her intentions. He considered that Ms Raye was the type of personality who would dramatize her suicide by leaving notes or suicide letters. He held no records indicating prior suicide attempts by Ms Raye.⁸⁴
84. However, it does not appear that Ms Raye spoke to friends or acquaintances about suicide, particularly in the period before her death.⁸⁵ According to Mr Hurrell, Ms Raye had spoken about suicide prior to what he described as her suicide attempt in June 1988, but did not speak of it after that time.⁸⁶
85. Several references are made to Raye being a melodramatic and attention-seeking person. Dr Steinheuer described Ms Raye as a hypochondriac, while Dr Grieve said that she “would make up stories of intrigue and scandal, with her being the central figure”.⁸⁷ Mr Connors said that in around October/November 1987, Ms Raye claimed to be blind. But he and others had formed the opinion that she was not blind, and that it was one of her attempts to gain attention or get help.⁸⁸

Harassment at her residential flat

86. One issue that emerges strongly from the available evidence is the physical and sexual harassment that Ms Raye is recorded as having faced at her home.

⁸¹ Ibid, [7].

⁸² Ibid, [9].

⁸³ Statement of Dr Edward Grieve (n 66), [4].

⁸⁴ Statement of Dr Peter Joseph Steinheuer (n 66), [9].

⁸⁵ Statement of Bruce Day (n 4545), [7].

⁸⁶ Statement of Wayne Hurrell (n 2), [7].

⁸⁷ Statement of Dr Edward Grieve (n 66), [4].

⁸⁸ Statement of Cliff Connors (n 1313), [8].

Special Commission of Inquiry into LGBTIQ hate crimes

87. In early 1989, each of Drs Borman, Steinheuer and Berlin wrote to the Housing Commission seeking urgent assistance with finding Ms Raye alternate accommodation.⁸⁹ Ms Raye had been on the Housing Commission's priority list for two years, but had heard nothing. The comments of her treating doctors indicate a connection between this harassment and the severity of her depression.

88. Dr Borman wrote that:

To enable her to start a normal life as a woman it is essential that she removes herself from her old environment. She is also extremely sensitive and has become the butt of aggressive behaviour in the flats where she lives. Such antisocial behaviour includes urinating outside her front door, and throwing acid through the window. Because of her, until recently, ambivalent sexual situation, she will not be accepted by any refuge, male or female. Her case has been on the priority list with the HC [Housing Commission] for two years but her plight has become desperate and if she is not offered some accommodation in the very near future she is in more danger of committing suicide, or becoming the victim of violence.⁹⁰

89. Dr Steinheuer stated that:

In the last 6 months [Ms Raye] has been the victim of numerous psychological and physical assaults requiring treatment of this surgery. These assaults relate to her current terrible living situation and the public's perception of her as "abnormal" even though Samantha was born with the condition of hermaphroditism which presents as ambiguous gender characteristics. Both the assaults and long standing prejudice have made Samantha suicidal and depressed and I feel a continuation of her current living situation will increase the risk of her committing suicide.⁹¹

90. Similarly, Dr Berlin explained that:

[Ms Raye] has suffered enormously from sexual harassment from her cohabitants and neighbours. She has been threatened and abused and I fully support her application for a home.⁹²

91. Mr Hurrell similarly noted that since December 1988, Ms Raye was having trouble with the resident of a neighbouring flat. This neighbour was generally harassing Ms Raye with threats of physical violence and bodily harm. Mr Hurrell heard of a case of him urinating against her front door.⁹³ Mr Hurrell told

⁸⁹ Letter from Dr Helen Borman to the Housing Commission (n 1414).

⁹⁰ Ibid.

⁹¹ Ibid.

⁹² Letter from Dr Berlin to the Department of Housing (n 373737).

⁹³ Statement of Wayne Hurrell (n 2), [7].

Special Commission of Inquiry into LGBTIQ hate crimes

police that the only person that he knew of that had anything against Ms Raye was her neighbour, but he did not witness any of the incidents which Ms Raye told him about.⁹⁴

92. The only investigation made by police into these claims of harassment was the OIC “interviewing” the neighbour regarding the allegations. The neighbour apparently “denied everything put to him concerning Raye”.⁹⁵ However, there is no record of this interview, or any statement from the neighbour, in the documents produced to the Inquiry by the Police.

Last known movements

93. Ms Raye was last seen alive by Mr Hurrell on 5 March 1989, when he visited her flat in Macleay Street. Ms Raye and Mr Hurrell sat and talked for about an hour. During this time, Ms Raye seemed to be in normal spirits.⁹⁶
94. On 9 March 1989, Ms Raye had an appointment with her psychiatrist Dr Borman. Dr Borman says that, on this occasion, Ms Raye “seemed resigned to her situation”.⁹⁷
95. On 11 March 1989, Mr Hurrell spoke with Ms Raye for the last time, when she telephoned him from the Wayside Chapel at about 7:00pm. Hurrell said that the telephone conversation lasted for about 30-45 minutes, and that Ms Raye seemed to be upset but did not mention anything about suicide.⁹⁸
96. According to Mr Hurrell, on 16 March 1989, Ms Raye did not attend an appointment with her psychiatrist.⁹⁹ This is neither contradicted nor confirmed in Dr Borman’s statement.
97. Around midday on Friday, 17 March 1989, Mr Hurrell went to Ms Raye’s flat. He let himself in with his key and found that she was not home. According to Mr Hurrell, this was unusual as Ms Raye was usually at home during the day and didn’t like going out much. Ms Raye also usually called Mr Hurrell on Thursday nights but had not done so the previous evening.
98. While he was in Ms Raye’s flat, Mr Hurrell noticed a note on the side table in the living room, with Ms Raye’s handwriting, which read, “At lighthouse, will be back????”. Mr Hurrell also noticed that “Hanna”, Ms Raye’s social worker, had written something under the note. Mr Hurrell left a note of his own under Ms Raye’s note and left the unit.

⁹⁴ Ibid.

⁹⁵ Statement of Constable William John Wilcher (n 2), [9].

⁹⁶ Statement of Wayne Hurrell (n 2), [8].

⁹⁷ Statement of Dr Helen Borman (n 66), [6].

⁹⁸ Statement of Wayne Hurrell (n 2), [8].

⁹⁹ Ibid, [10].

Special Commission of Inquiry into LGBTIQ hate crimes

99. On 19 March 1989, Mr Hurrell returned to Ms Raye's unit, with Ms Hedler, and found it empty. They attended King's Cross Police Station and reported Ms Raye as a missing person.¹⁰⁰
100. On 20 March 1989, Mr Hurrell decided to look for Ms Raye himself, and made enquiries with her doctor, psychiatrist and the Kings Cross branch of the St George Building society. All avenues proved negative. Mr Hurrell then went to the Lady Jane Beach at Watsons Bay, where Ms Raye sometimes went to swim. Mr Hurrell looked along the beach and in the bushes in search of Ms Raye, but then saw police vehicles at the lighthouse at South Head.¹⁰¹

Discovery of Ms Raye's body

101. At around 9:30am on 20 March 1989, Daniel Willis had discovered Ms Raye's body in a rock cave underneath the Hornby Lighthouse at South Head.¹⁰² According to police, Ms Raye's body was located under a large overhang about two feet above the high tide mark.¹⁰³ It was approximately 50 metres south of Hornby Lighthouse and 15 metres below the Lighthouse.¹⁰⁴
102. Mr Willis stated that he saw Ms Raye's body as he was walking along the rocks. He walked closer to the body and saw that there was no movement. Ms Raye's left eye was open or partially open, and there was a dried stain of blood or mucus from running from her mouth to nose. Ms Raye's body was cold, and Mr Willis could not find a pulse. He returned to the top of the cliff and contacted a National Parks and Wildlife Officer who called Police.¹⁰⁵
103. Mr Willis then returned to the rocks where Ms Raye's body lay and sat about 20 yards away. He stated that while he was sitting there, no one else touched the body until police came, although an older man came and observed the body from about three metres away.¹⁰⁶ The identity of this man is unknown, and his presence is not referred to or discussed anywhere else.

Police observations of the scene of death

104. At 10:25am, officers from the Bondi Police Station attended Hornby Lighthouse and were shown to Ms Raye's body. According to the officers' reports:¹⁰⁷

¹⁰⁰ Ibid, [9].

¹⁰¹ Ibid, [10].

¹⁰² Statement of Daniel Willis, dated 20 March 1989, [3] (SCOI.11038.00031).

¹⁰³ Statement of Constable Patrick John Duncombe, dated 8 May 1989, [4] (SCOI.11038.00028).

¹⁰⁴ Statement of Constable William John Wilcher (n 2), [3].

¹⁰⁵ Statement of Constable Patrick John Duncombe (n 103), [5]; Statement of Daniel Willis (n 102102), [5].

¹⁰⁶ Statement of Daniel Willis (n 102102), [6].

¹⁰⁷ Statement of Constable William John Wilcher (n 2), [4].

Special Commission of Inquiry into LGBTIQ hate crimes

- a. Ms Raye was lying on her back, with her right leg over her left leg. Her left fist was closed in the centre of her chest, and her right arm was along her side.
- b. Ms Raye's head was turned to the right. Dried mucus was running from her open mouth and nose, and both her eyes were slightly open.
- c. She was dressed in brown pants with a black Spray jacket, with white shoes and a brown belt. She was wearing multiple pieces of jewellery.
- d. A plastic bottle, similar to a film case, was found next to Ms Raye's body. It contained a white substance.
- e. A large syringe and needle were found underneath a rock shelf around 1.5 metres from Ms Raye's head.
- f. An empty syringe packet and an empty lance packet were found around 1.5 metres from Ms Raye's feet, lying in some water-filled rock pools.
- g. An empty box of "Mixtard" (a schedule 3 insulin) was found around five metres south of Ms Raye's body.
- h. The following messages were written on the rock face above Ms Raye's body in crayon or charcoal: "Syanti love Jaja" and "Swanny Forever". The OIC later expressed the view that this writing seemed to be unrelated to Ms Raye's death.¹⁰⁸

105. In a job entry dated 10:50am, the OIC recorded the incident as "death suspicious."¹⁰⁹

106. At 11:30am,¹¹⁰ officers from the crime scene unit attended and took photographs of Ms Raye and the surrounding area.¹¹¹ Unlike the OIC, they recorded at 11:35am that there were "no suspicious circumstances". That variance is not subsequently explained or clarified in later police documents.

107. The crime scene unit officers also noted that a "condom" was located near Ms Raye,¹¹² although this does not appear to be recorded anywhere else in the police material.

108. Police then searched Ms Raye's body and found:

- a. Ms Raye's black shirt (under her jacket) was unbuttoned, exposing her breasts.

¹⁰⁸ Ibid, [14].

¹⁰⁹ Police entry book extract, dated 20 March 1989 (SCOI.10333.00005).

¹¹⁰ This time is recorded as 11:30pm in the statement of Constable William John Wilcher (n 2), [6], but appears to be an error.

¹¹¹ Crime Scene Photographs of 20 March 1989 (SCOI.11038.00039).

¹¹² Scene attendance entry by Scientific Team, dated 20 March 1989 (SCOI.10333.00007).

Special Commission of Inquiry into LGBTIQ hate crimes

- b. Ms Raye's pants were undone, with the belt loosely threaded through the buckle and the fly half done up.
- c. A small folding knife and a whistle in the right pocket of her jacket.
- d. A blister packet containing six 5mg Valium tablets, with two tablets missing.¹¹³

109. It does not appear that Ms Raye had any money or identification on her.¹¹⁴

110. At 12:25pm, Mr Hurrell attended Lady Jane Beach, where Ms Raye went to swim. When he saw police vehicles, he approached and explained that he was looking for his missing friend. Mr Hurrell then identified the deceased person as Ms Raye.¹¹⁵

Police investigation

111. At around 1:00pm on the same day, 20 March 1989, police accompanied Mr Hurrell to Ms Raye's residence. Police searched the flat and took the following medications:

- a. Serepax 30mg (a benzodiazepine used to treat anxiety);
- b. Vibra-Tabs 50 (an antibiotic used to treat certain infections);
- c. Primogyn (an estrogen hormone);
- d. Tryptanol 25mg (a tricyclic antidepressant);
- e. Panadeine forte (used to relieve severe pain);
- f. Panamax 500mg (paracetamol for temporary relief of pain); and
- g. Codalgin (used to relieve moderate to severe pain).

112. Several syringes were also located in the unit, with one being identical to the syringe found near Ms Raye's body at Hornby lighthouse. No insulin was found in Ms Raye's flat.

113. Police also found Ms Raye's note that read, "At lighthouse, will be back????". Police described the note as being left on the mantelpiece. No mention is made by police of Ms Hedler's or Mr Hurrell's additional notes. As noted above, one possible interpretation of this note might be that it was a suicide note, given the inclusion of "????"; but the note is at least ambiguous as, for example, the "????" could perhaps have been simply an indication that she was not sure how long she would stay at the lighthouse.

¹¹³ Statement of Constable Patrick John Duncombe (n 103), [6].

¹¹⁴ P79A Report of Death to Coroner (n 3838).

¹¹⁵ Identification statement dated 20 March 1989 (SCOI.11038.00029).

Special Commission of Inquiry into LGBTIQ hate crimes

114. Several letters from men which had been written in response to advertisements in *Campaign* (a Sydney gay magazine) were also taken from Ms Raye's flat, as well as a book containing "sad poems" written by Ms Raye.
115. The OIC contacted local hospitals to obtain medical records of Ms Raye. He found that Ms Raye had been treated five times in the prior two years in St Vincent's Hospital for minor injuries but had not been admitted. There was no record of her having received any treatment at Sydney Hospital. There was no mention on any of Ms Raye's medical records of her being diabetic or requiring insulin for other medical reason.¹¹⁶
116. As part of the coronial investigation, police also obtained witness statements from Mr Hurrell, Mr Day and Mr Connors, as well as statements from three of Ms Raye's medical practitioners. Notably no statement was taken from Ms Raye's social worker Ms Hedler.
117. The police brief also contains copies of some media reporting at the time, including:
- a. One article includes several quotes from Ms Hedler, who is likely to be the "social worker" referenced by Mr Hurrell and a volunteer worker at the Wayside Chapel. As noted above at [77], Ms Hedler told the reporter that Ms Raye's doctor would not perform the final part of her gender affirming surgery due to her poor living conditions.¹¹⁷
 - b. A second article refers to police finding a number of cigarette packets near Ms Raye's body. It also quotes a police spokesman who stated, "We believe the deceased was with someone shortly before the time of death".¹¹⁸ The basis of this comment remains unknown.
118. Something of the societal attitudes of the time towards intersex and/or transgender people may be discerned from some of the reporting on Ms Raye's death. In one headline, for example, Ms Raye was described as "half man, half woman".¹¹⁹

Opinion of investigating officers as to cause of death

119. The OIC expressed the following views:

According to the medical evidence I have recorded, Samantha was mentally unstable, a person who constantly lived in a world of intrigue and scandal. Samantha RAYE was a loner, who would not fit into the bizarre world of the genuine

¹¹⁶ Statement of Constable Patrick John Duncombe (n 103), [10].

¹¹⁷ Brett McCarthy, 'Half man, half woman's tragedy' (n 1199).

¹¹⁸ Mark Morri, "Sad Love Poems on Cave Body", *Daily Mirror*, 21 March 1989 (SCOI.48947).

¹¹⁹ Brett McCarthy, 'Half man, half woman's tragedy' (n 19). It may be, although this is perhaps ambiguous, that the 8 May 1989 statements of the attending police officers, Constable Wilcher (n 2, [6]) and Constable Duncombe (n 103, [4]), also reflect such attitudes, in sometimes referring to the body of Ms Raye as "it".

Special Commission of Inquiry into LGBTIQ hate crimes

transsexual or transvestite, and could not fit in with main stream society due to the way she was born. I have spoken to transvestite prostitutes at Darlinghurst, all of which knew Samantha RAYE by sight but all stated that she did not associate with the rest of the community. These Transvestites and transsexuals did not know of anyone named Syanti or Jaja or Swanny, so it would seem that the writing above the place where the body was found is unrelated.

I cannot draw conclusion about how Samantha RAYE met her death, although suicide is the most likely verdict. The only thing out of character with Samantha RAYE committing suicide is that she did not leave a more descriptive suicide note or that she did not get the maximum effect from the event, as was consistent with her personality. I can find no motive for anyone wishing harm to Samantha RAYE.

120. The concept of a “genuine” “transsexual or transvestite” would be considered offensive by many today. The use of that expression seems to echo the “gatekeeping” model used by the medical profession from the early 1950s, where psychiatrists determined whether someone was a “true transsexual” based on whether the person conformed to expected stereotypes for middle class, white, cis women, or looked sufficiently feminine. The views of a psychiatrist as to whether a person was a “true transsexual” or “genuine transsexual” would determine who had access to hormones and/or gender affirmation surgery.¹²⁰
121. Similarly, the reference to “genuine transsexuals or transvestites” living in a “bizarre world”, and the assumption that the reason why Ms Raye could not fit in with “mainstream” society was “the way she was born” (rather than, for example, discrimination and/or hostility towards intersex or transgender people), would now generally be regarded as reflecting views and attitudes of a different era.

Poor mental health outcomes due to discrimination against and harassment of LGBTIQ people

122. It is increasingly well understood that the stigmatisation of bodily diversity can lead to harmful practices in medical settings, including for example interventions, by medication or otherwise, to make bodies appear and/or function in a manner more typically male or female (often when the person is too young to consent), prenatal genetic selection, and discrimination.¹²¹
123. People with intersex characteristics, such as Ms Raye, can identify as cisgender, transgender or non-binary. The innate sexual characteristics of a person such as Ms Raye should not be conflated with her gender identity. Similarly, intersex characteristics are not associated with a person’s sexuality.¹²²

¹²⁰ Statement of Dr Eloise Brook (n 15), [20]-[21].

¹²¹ See Morgan Carpenter, “Discrimination” (n 15).

¹²² See “Intersex”, *Intersex Human Rights Australia* (Post, 1 June 2021) <<https://ihra.org.au/19853/welcome/>>.

Special Commission of Inquiry into LGBTIQ hate crimes

124. Ms Raye was also a transgender woman, identifying as female despite being assigned as male at birth. The Inquiry has received evidence from Dr Brook about the mental health burden of discriminatory attitudes towards transgender and gender diverse people. Dr Brook stated:

Physical violence is not the only form of violence experienced by trans and gender diverse people. There is the violence of exclusion, the violence of having your reality questioned, the violence of having your identity disrespected, the violence of the people and institutions who want to “correct” you, the violence of systems that don’t make see you or make space for you.¹²³

125. Dr Brook referred¹²⁴ to a 2020 study by the Australian Research Centre in Sex, Health and Society (LaTrobe University),¹²⁵ which found that across their lifetime, 45.6% of trans women, 52.9% of trans men and 40.2% of non-binary people will attempt to die by suicide, compared to 3.2% of the general population.
126. Whether Ms Raye’s death was the result of suicide by an intentional insulin overdose cannot be definitively proved or disproved. If it was, the evidence would indicate that the discrimination which she faced in the course of her lifetime, as an intersex person and/or as a transgender person, may well have been a significant factor in her forming such an intention.
127. As noted above, Ms Raye’s death certificate includes, seemingly as a third “cause of death”, the phrase “transexual depression”. As also noted above, although the death certificate itself is dated 19 April 1989, the “certification” of “cause of death” appears to have been made on 6 July 1989 (after the date of Dr Bradhurst’s 23 June post-mortem report), by someone other than Dr Bradhurst.
128. Whether the choice of the phrase “transexual depression”, in the death certificate, flowed from a misreading or misunderstanding of Dr Bradhurst’s actual (different) opinion as recorded in his post-mortem report, or was derived in some other way, is not known.
129. Although the word “transexual” was commonly used for many years, and although some trans people still use that terminology, the term “transgender” is now more widely regarded as appropriate, and is the term used by the Inquiry.¹²⁶

¹²³ Statement of Dr Eloise Brook (n 15), [98].

¹²⁴ Ibid, [101b].

¹²⁵ Exhibit 2, Tab 14, Adam O Hill et al, ‘Private Lives 3: The health and wellbeing of LGBTIQ people in Australia’ (Report, ARCSHS Monograph Series No 122, Australian Research Centre in Sex, Health and Society, La Trobe University, August 2020), [101] (SCOI.77275).

¹²⁶ See Exhibit 2, Tab 12, Professor Noah Riseman, *New South Wales Trans History Report* (31 March 2022), 10 (SCOI.76805); see also TransHub, ‘Trans-Affirming Language Guide’ <<https://www.transhub.org.au/language>>.

Special Commission of Inquiry into LGBTIQ hate crimes

130. Moreover, this language in the death certificate seems to involve an assumption both that being “transsexual” is a clinical issue in itself, relevant (in itself) to cause of death, and that “transsexual depression” is a particular, specific type of “depression”. Neither of those assumptions is tenable: see [138] below. (As a separate matter, on the other hand, the harassment and discrimination evidently faced by Ms Raye as both a person with intersex characteristics and transgender woman are plainly likely to have contributed to her poor mental health and depression.)
131. It is recommended that the phrase “transsexual depression” be removed from Ms Raye’s death certificate: see below at [144].

Report of Professor John Carter

132. Professor Carter was briefed to provide an opinion as to whether insulin use could have contributed to Ms Raye’s death. Professor Carter considered that while the clinical and toxicological features found at post-mortem are *consistent* with death due to an injection of a large dose of insulin, they do not unequivocally indicate that the cause of death was related to an insulin injection. Professor Carter outlined the limitations of attempting to ascertain if insulin overdose contributed to death, as follows:
- a. There was no measurement of Ms Raye’s blood glucose level and, in any event, there is a very poor correlation between post-mortem blood glucose levels and anti-mortem glucose levels. The breakdown of red blood cells following death releases glucose, such that even if a person died with very low blood glucose levels (hypoglycaemia), the post-mortem blood glucose levels could be normal or even high.
 - b. The finding of a urine glucose concentration of 0.9 mmol/L is not abnormal, and not of assistance in determining cause of death.
 - c. Estimates of insulin concentrations in unpreserved blood obtained post-mortem are unreliable in the determination of the cause of death, as insulin degrades in the body, and can also increase due to the diffusion of endogenous insulin from the pancreas. Ms Raye’s insulin level at post-mortem was 21 micro units per mL. Such a level immediately prior to death would strongly suggest that insulin was *unrelated* to cause of death. However, it is possible that a much higher level had been injected and then progressively reduced to 21 micro units per mL over the days prior to a blood sample being taken. As such, it is impossible to determine whether Ms Raye’s recorded insulin level at post-mortem, of 21 micro units per mL, contributed to her death.

Special Commission of Inquiry into LGBTIQ hate crimes

Report of Dr Iles

133. Dr Iles was requested to review the original autopsy report and provide an opinion as to the time and cause of Ms Raye's death.¹²⁷ While noting the developments in autopsy practice since the time of Ms Raye's death, Dr Iles notes the following (without criticism of the original pathologist):¹²⁸
- a. Ms Raye was found in a state of partial undress. In these circumstances, Dr Iles considers a specific comment regarding the presence or absence of anogenital or breast injuries would have been prudent, as would the swabbing of her anogenital region for semen. It is unclear if the pathologist was informed of the state of Ms Raye's dress.
 - b. Similarly, given Ms Raye was found in proximity to a syringe and Mixtard packet, Dr Iles considers a comment regarding the presence or absence of injection sites would have been desirable.
 - c. Finally, Dr Iles notes that there was no comment regarding the presence or absence of petechial haemorrhages around the eyes and mouth, which is standard in contemporary practice when considering the possibility of neck compression. Likewise, there is no comment as to injury to the oral mucosa (i.e. the mucous membrane lining the inside of the mouth) or Ms Raye's dentition (i.e. teeth).
 - d. While toxicological analysis of the blood, stomach contents and urine was undertaken, it is unclear whether substances other than alcohol and insulin were tested for, such that the contribution of other substances contributing to death cannot be excluded.
134. Notwithstanding those limitations, Dr Iles considers that the autopsy examination was sufficient to exclude significant injury contributing to Ms Raye's death.
135. Dr Iles further comments on the limitations of determining insulin use prior to death from either assays of blood glucose or the insulin concentration in blood. Similarly to Professor Carter, Dr Iles notes that the fall in glucose after death, and the instability of insulin after death, make insulin readings of limited use, unless taken rapidly after death.¹²⁹

¹²⁷ Expert report of Dr Iles (n 1).

¹²⁸ Ibid, 6-7.

¹²⁹ Ibid, 6.

Special Commission of Inquiry into LGBTIQ hate crimes

136. Based on the material available to Dr Iles, she agrees with the opinion of Dr Bradhurst that it is likely that Ms Raye died as a consequence of bilateral bronchopneumonia. Dr Iles is unable to assess the extent or likely contribution of mild meningoencephalitis to Ms Raye's death.¹³⁰
137. In Dr Iles' opinion, the development of bronchopneumonia in an otherwise healthy individual requires explanation and "suggests a period of central nervous system depression/obtundation prior to death." However, in her view the medical evidence is unable to confirm the mechanism of any central nervous system depression.¹³¹
138. In relation to the inclusion of "transexual depression" as a "cause of death" in the death certificate (but not in the autopsy report), Dr Iles states:

There is no biological or pathological evidence to justify the inclusion of "transexual" on Ms Raye's death certificate, i.e. there is no physiological link between Ms Raye's intersex biology, gender affirming surgery or hormonal therapy and her death. Likewise, depression cannot be assessed by a pathologist at autopsy. This is not a pathological finding that can be supported by physical evidence. Whilst a coroner might have a view as to the circumstances surrounding her death, this is not something that can be concluded by a pathologist. It is incorrect for a pathologist to include these elements on a medical certificate of cause of death.¹³²

Conclusions as to bias

139. There is ample evidence that LGBTIQ bias had an adverse impact on Ms Raye's mental health. However, there is no basis for finding that her death was the result of a homicide, and accordingly no basis for finding that her death was an LGBTIQ hate crime.

Submissions as to manner and cause of death

140. Consistent with the opinion of Dr Iles, it is submitted that the Inquiry should find that Ms Raye died at an unknown time and date between 12 and 19 March 1989 as a result of bilateral bronchopneumonia, which is likely to have followed a period of central nervous system depression or obtundation.
141. There is some circumstantial evidence to suggest Ms Raye self-administered insulin, inducing hypoglycaemia. This evidence includes the presence of the syringe and empty insulin bottle near her body, her conflicting statements prior to death as to whether she used or was required to use insulin, and her suicidal ideation. However, the evidence is not such as to allow a positive finding that Ms Raye did self-administer insulin prior to her death. Moreover, for the reasons outlined above it is not

¹³⁰ Ibid, 8-9.

¹³¹ Ibid.

¹³² Ibid, 9.

Special Commission of Inquiry into LGBTIQ hate crimes

possible to reach a finding as to whether the presence of insulin in her body was a contributing cause of death.

142. For the same reasons, there is insufficient evidence to support a finding that Ms Raye intended to die by suicide.
143. In the circumstances analysed above, it is submitted that the death of Ms Raye was neither “unsolved” as at the inception of the Inquiry, nor a death “motivated by gay hate bias”, and that therefore the death does not fall within category A of the Inquiry’s terms of reference.

Submissions as to recommendations

144. It is submitted that a recommendation should be made to the Registrar of Births, Deaths and Marriages to correct the Register of Births, Deaths and Marriages pursuant to s 45(1)(b) of the *Births, Deaths and Marriages Registration Act 1995*, such that:
- a. Ms Raye’s date of death be recorded as “unknown date between 12 and 20 March 1989”; and
 - b. The phrase “transsexual depression” is removed from the cause of death.

Kathleen Heath
Counsel Assisting