

[Sensitive: Legal]

**Director's Chambers****Our Reference**

9221470

3 April 2023

Ms Kate Lockery  
Principal Solicitor  
Special Commission of Inquiry into LGBTIQ hate crimes  
121 Macquarie Street  
Sydney NSW 2000

**Via email:** [kate.lockery@specialcommission.nsw.gov.au](mailto:kate.lockery@specialcommission.nsw.gov.au)

Dear Ms Lockery,

**Re: Privileged material regarding the death of Mr William Rooney**

I refer to your letter dated 24 March 2023 and your discussion with Ms Esther Kwiet concerning the material produced by this Office pursuant to summons ODPP2. In lieu of the tender and publication of the report of Deputy Senior Crown Prosecutor Tedeschi KC dated 2 April 1993 and the letter from Solicitor of Public Prosecutions Mr O'Conner dated 28 June 1993 I provide the information below for the assistance of the Inquiry.

On 24 March 1993 NSW Police referred Mr Mark Anthony Scerri to this Office to consider whether there was sufficient evidence to prosecute him in relation to the death of Mr William Rooney. This Office had previously prosecuted Mr Scerri for a number of violence and sexual offences. Mr Rooney was ultimately convicted in relation to four complainants. He was not convicted for the offences against **1186** whose evidence police sought to rely on in Mr Rooney's matter. The remaining charges were either directed not to proceed or resulted in acquittals.

The brief of evidence provided by police was reviewed and Deputy Senior Crown Prosecutor Tedeschi KC concluded that there was no evidentiary basis to charge Mr Scerri with murder. Mr Tedeschi KC considered that there was insufficient evidence to establish that Mr Rooney's injuries were inflicted as opposed to being caused by a fall and that there was no evidence that Mr Rooney had been sexually assaulted such that 'similar fact' evidence could be relied on by the prosecution. Mr Tedeschi KC recommended Mr Scerri be interviewed in relation to Mr Rooney's death. Police attempted to interviewed Mr Scerri on 20 May 1993. On 21 June 1993, Senior Deputy Director Bannon KC agreed with Mr Tedeschi KC that there was no proper basis for charging Mr Scerri with Mr Rooney's murder. Police were advised of this decision in writing on 28 June 1993.

I agree to the tender and publication of the letter from Chief Superintendent Cassidy dated 24 March 1993 and the report of Inspector Ainsworth dated 17 March 1993, subject to the views of NSW Police.

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**Office of the Director of Public Prosecutions**

175 Liverpool Street  
Sydney NSW 2000  
Locked Bag A8  
Sydney South NSW 1232  
DX 11525 Sydney Downtown

Phone 02 9285 8888  
Fax 02 9285 8601  
TTY 02 9285 8646  
odpp.nsw.gov.au

ABN 27 445 689 335

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To assist the Inquiry please find attached a chronology that details the history of this matter.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'S. Dowling', written in a cursive style.

**Sally Dowling SC**  
**Director of Public Prosecutions**



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### Summary of prosecution of Mr Mark Scerri in relation to Mr William Rooney

1.	28/03/1991	Referral by Inspector Ainsworth to the ODPP for consideration of an ex officio charge to be laid for the murder of Mr Rooney
2.	22/04/1991	Report by DSCP Robinson QC recommending that no ex officio charges be laid for the murder of Mr Rooney
3.	26/04/1991	Direction declining to lay an ex officio charge for the murder of Mr Rooney: <i>"this being a murder charge, it is not in my view a matter where an ex officio indictment would be filed without the accused having the benefit of committal proceedings. I therefore recommend that the trial proceed in respect of the sexual assaults and depending upon the outcome thereof and the strength of the "similar fact" evidence, consideration should then be given by the police as to whether, taking into account the alleged admission, there is sufficient evidence to warrant charging the accused for the murder."</i>
<i>Sexual Assault Trials for Mark Scerri run through this period</i>		
4.	24/03/1993	Referral by Inspector Ainsworth and Superintendent Lawson to the ODPP for consideration of further charges, specifically: whether Mr Scerri could be charged with murder on the available evidence; or whether a reward should be offered by the NSW Government for further evidence.
5.	02/04/1993	Report by DSCP Tedeschi KC advising that there is no basis on the evidence to charge Mr Scerri for the murder of Mr Rooney; and recommending that Mr Scerri be interviewed in respect of Mr Rooney before any further steps are taken.
6.	12/05/1993	Report by Professional Assistant Nazzareno Bruni advising that there is insufficient evidence to charge Mr Scerri for the murder of Mr Rooney; and recommending that Mr Scerri be interviewed in respect of Mr Rooney before a decision is made.
7.	20/05/1993	Interview of Mr Scerri by Detective Senior Constable Paul Anthony Davidson and Detective Senior Constable Fitzgerald. When advised that the interview was about the death of Mr Rooney, Mr Scerri said <i>"You can both stick it up your arse, get fucked, fuck off."</i>
8.	21/06/1993	Direction by Senior Deputy Director Bannon QC, declining to lay an ex officio charge for the murder of Mr Rooney.
9.	28/06/1993	ODPP advice to police that there is insufficient evidence to charge Mr Scerri for the death of Mr Rooney.