



## Special Commission of Inquiry into LGBTIQ hate crimes

28 April 2023

Dr Danny Sullivan  
Consultant Forensic Psychiatrist

By email: [REDACTED]

Dear Dr Sullivan,

### **Special Commission of Inquiry into LGBTIQ hate crimes: expert report in relation to the death of Samantha Rose**

As you are aware, I assist the Honourable Justice John Sackar in the Special Commission of Inquiry into LGBTIQ hate crimes ("the Inquiry").

#### **The Inquiry**

By way of background, on 13 April 2022 the Governor of NSW, by Letters Patent, issued a commission to his Honour to inquire into and report on historical LGBTIQ hate crimes. Specifically, the Letters Patent require his Honour to inquire into and report to the Governor and Premier on the following matters by 30 June 2023 (now extended to 30 August 2023):

- A. The manner and cause of death in all cases that remain unsolved from the 88 deaths or suspected deaths of men potentially motivated by gay hate bias that were considered by Strike Force Parrabell; and
- B. The manner and cause of death in all unsolved suspected hate crime deaths in New South Wales that occurred between 1970 and 2010 where:
  - i. The victim was a member of the lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) community; and
  - ii. The death was the subject of a previous investigation by the NSW Police Force.

#### **Request for expert opinion**

Further to your conferences with the Commissioner and assisting team on 23 May 2022 and 31 August 2022, by this letter, you are briefed to prepare an expert report for the Inquiry in relation to death of Samantha Rose from the perspective of a forensic psychiatrist addressing certain matters identified below.

I would be grateful if you could provide your report by **12 May 2023**. If you anticipate any difficulties with this timeframe, please let me know as soon as possible.

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In addition to providing your report, you may be required to give oral evidence at any hearing in relation to Ms Rose's death. If you are required to give oral evidence, I will notify you as soon as practicable to discuss suitable arrangements.

### Background

In preparing your report, you are requested to assume the facts set out in the below summary. Additionally, please have regard to any other relevant information contained in the briefing materials provided to you.

1. Ms Rose was born on 26 April 1956. Ms Rose was a transgender woman and given the name David Rose at birth. She was found deceased in her home in Kensington on 22 December 1997. Her time of death was estimated to be between the afternoon of 20 December 1997 and 21 December 1997.
2. Ms Rose had dressed in female attire from 18 years of age. On 7 October 1997, she told Dr Alfred Steinbeck, a medical practitioner and endocrinologist that Ms Rose had been referred to, that she had never had a sexual relationship with a male or female, and further, that she was not attracted to men and was only attracted to women as friends.
3. On 7 October 1997, Ms Rose commenced hormonal treatment of Androcur and Progynova. She suffered nausea as a side effect and was subsequently prescribed anti-nausea medication on 18 December 1997.
4. On 19 December 1997, Ms Rose was prescribed further anti-nausea medicine and was also given a medical certificate for 3 days absence from work.
5. Ms Rose usually went to the chemist on Saturdays to receive her hormone treatment. Pamela Noble, a pharmacist at Doncaster Chemist in Kensington, dispensed medication to Ms Rose on 6 and 13 December. However, records indicate that she did not attend the pharmacy on Saturday 20 December 1997.
6. Ms Rose was last seen between 1-2pm on 20 December 1997 by Ai Lun Gu, who lived in the same unit block. Ms Rose last spoke to a friend, Louise Sadek, via telephone at 2:48pm the same day for over 8 minutes. Ms Rose stated that she was unwell and was watching TV.
7. Bertha, Ms Rose's mother, attempted to call Ms Rose multiple times, including at 3pm. However, the phone was engaged and remained that way until her last attempt at about 9pm, and the following morning.
8. At 8:45 pm, Stephen Becker, a friend, attended Ms Rose's unit to deliver a gift but could not raise Ms Rose.

### *Discovery on 22 December 1997*

9. Shortly after 9:20am on 22 December 1997, Ms Rose's mother and brother, Bertha and Ian Rose, attended Randwick Police Station. They then went to the unit to meet police and Ms Rose's father, Max, to gain access.
10. Ms Rose was found deceased, lying on her back near the kitchen table. A kitchen chair had fallen over near her head. Between her open knees there was an unopened tin of plums, one side of which was dented.
11. Her body suffered severe injuries consistent with numerous heavy blows with a blunt object, including fractures to her skull and severe bruising. Dried blood appeared around her nose and face, with some maggots around her nose and mouth. She had bruises above both eyes. A number of blood spots were on her white t-shirt. There was no indication of sexual trauma.

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12. Her arms were outstretched from her body at an angle of approximately 45 degrees, her head slightly to her left and her legs were apart. There was a trail of dried blood down the left and right side of her face, commencing at her nose and passing over her right eye lid and forehead onto the floor. Ian Rose stated that Ms Rose had paper bags over her hands.
13. There was no evidence of forced entry to Ms Rose's unit. The front door was locked from the inside by way of two security locks and could not be opened without keys.

### *Post-mortem investigations*

14. A post-mortem examination was carried out by Dr Christopher Lawrence at 2pm on 22 December 1997.
15. The direct cause of death was determined to be head injury. Significant injuries were found, including to the head with subdural haematoma and extradural haematoma, fractures on the left temple region, fractures in the occipital region and bruising on the back of the head. There were further impact sites on the cheeks and the back of the head.

### **The injuries were recorded as being due to blunt force. Material with which you are briefed**

For the purpose of preparing your report, you are briefed with the materials in the **enclosed** index. The material contained in the index has been extracted from the NSWPF investigation file and the court file from the Coroners Court of NSW.

Please note that the briefing materials contain sensitive images. The relevant tabs of your briefing material have been marked with an asterisk on the index.

If there is any additional material that you consider would be of use to you in forming your opinion, please contact Aleksandra Jez and this material will be provided to you (if available).

### **Matters to be addressed in your report**

I would be grateful if you could address the following matters in your report, having regard to the material with which you are briefed and to the extent that they are matters which fall within your expertise:

1. Whether there are any aspects of the manner of death (including the nature and extent of the injuries inflicted) and/or crime scene which may indicate that a homicide has occurred in the context of LGBTIQ hate/prejudice/bias (hereafter collectively referred to as "hate");
2. The possible motivation/s of the unidentified perpetrator of Ms Rose's injuries, to the extent that this can be discerned from the available evidence. In answering this question, please consider any relevant concepts including (but not limited to) notions of masculinity, male honour, internalised homophobia/transphobia, medicalised stigma, perceptions of the characteristics of LGBTIQ persons, and particular psychopathologies;
3. Aspects of victimology that may be relevant to Ms Rose's death;
4. Any recommendations for further investigations with respect to determining the manner and cause of the person's death; and
5. Any other matters you wish to raise within your expertise that may be of assistance to the Inquiry.

Subject to your discretion, the Inquiry requires only a succinct analysis of the above matters and does not anticipate that your report need exceed three pages. However, you should not feel constrained to this page guidance if you consider a longer report necessary or appropriate.

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In the event that you are called to give evidence before the Inquiry, either as to general matters in connection with LGBTIQ hate crimes or particular cases, it may be necessary for the Inquiry to disclose to interested parties any correspondence or conference notes with you.

### Expert Witness Code of Conduct

I **enclose** a copy of the Expert Code of Conduct with which expert witnesses in Supreme Court proceedings in NSW are typically required to comply. While the present inquiry is not a Court proceeding, I would be grateful if you would read the Code of Conduct and agree to be bound by it. I suggest the following form of words be included in the body of your report in due course:

“I, Dr Danny Sullivan, acknowledge that I have read the Expert Witness Code of Conduct in Schedule 7 to the Uniform Civil Procedure Rules 2005 (NSW) and agree to be bound by it.”

Thank you for your consideration and assistance.

Please do not hesitate to contact Aleksandra Jez, Senior Solicitor on [REDACTED] or Kate Lockery, Principal Solicitor on [REDACTED] if you have any queries in relation to this matter.

Yours faithfully,



Aleksandra Jez  
Senior Solicitor  
**for Crown Solicitor**

Encl. 2

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## Death of David Rose

## Index to Brief to Dr Sullivan

TAB	DOCUMENT	DATE	SCOI REFERENCE
<b>Circumstances of death</b>			
1.	P79A Report of Death to Coroner	22 December 1997	SCOI.00041.00014
2.	Autopsy Report of Dr Christopher Lawrence	23 December 1997	SCOI.00041.00016
3.	Post Mortem Photographs [sensitive]	22 December 1997	SCOI.10083.00023
4.	Summary of observations at autopsy by Plain Clothes Constable Kitching	28 December 1997	SCOI.00041.00015
5.	Toxicology Results	21 January 1998	SCOI.00041.00017
<b>NSW Police Force Investigation</b>			
6.	Statement of Detective Senior Constable Paul Michael Thornton (Officer in Charge)	23 October 1998	SCOI.00041.00005
<b>Crime scene statements</b>			
7.	Statement of Detective Senior Constable Lyle William Van Leeuwen	10/18/1998	SCOI.00041.00024
8.	Statement of Detective Senior Constable Clinton Donald Nicol	10/18/1998	SCOI.00041.00019
9.	Crime Scene Photographs [sensitive]	22 December 1997	SCOI.10083.00025
<b>Expert statements</b>			
10.	Statement of Detective Senior Constable Tim Mealing (Photogrammetry and Drafting)	9/21/1998	SCOI.00041.00025
11.	Expert statement of Detective Senior Constable Graem Allen Bush (Fingerprint Examination)	10/14/1998	SCOI.00041.00027
12.	Letter from Dr Garry Levot (Post-Mortem Interval)	1/05/1998	SCOI.00041.00028
13.	Expert statement of Vivien Beilby (Blood Testing)	1/07/1998	SCOI.10119.00025
14.	Further statement of Vivien Beilby (Blood Testing)	2/03/1998	SCOI.10117.00003
<b>Police statements</b>			
15.	Statement of Constable Graham John Sims	12/22/1997	SCOI.00041.00010

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TAB	DOCUMENT	DATE	SCOI REFERENCE
16.	Statement of Senior Constable Barry Thompson	12/23/1997	SCOI.00041.00006
17.	Statement of Senior Constable Maxwell John Sladden	12/23/1997	SCOI.00041.00007
18.	Statement of Constable Kerralyn Patricia Waites	8/20/1998	SCOI.00041.00008
19.	Statement of Senior Constable John Paul Byers	12/27/1997	SCOI.00041.00009
20.	Statement of Plain Clothes Senior Constable Andrew Bruce Pincham	1/04/1998	SCOI.00041.00020
21.	Statement of Detective Senior Constable Christopher William Goddard	7/23/1998	SCOI.00041.00018

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20.	Statement of Plain Clothes Senior Constable Andrew Bruce Pincham	1/04/1998	SCOI.00041.00020
21.	Statement of Detective Senior Constable Christopher William Goddard	7/23/1998	SCOI.00041.00018

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# Uniform Civil Procedure Rules 2005

Current version for 11 November 2022 to date (accessed 28 April 2023 at 12:34)

## Schedule 7

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### Schedule 7 Expert witness code of conduct

(Rule 31.23)

#### 1 Application of code

This code of conduct applies to any expert witness engaged or appointed—

- (a) to provide an expert's report for use as evidence in proceedings or proposed proceedings, or
- (b) to give opinion evidence in proceedings or proposed proceedings.

#### 2 General duties to the Court

An expert witness is not an advocate for a party and has a paramount duty, overriding any duty to the party to the proceedings or other person retaining the expert witness, to assist the court impartially on matters relevant to the area of expertise of the witness.

#### 3 Content of report

Every report prepared by an expert witness for use in court must clearly state the opinion or opinions of the expert and must state, specify or provide—

- (a) the name and address of the expert, and
- (b) an acknowledgement that the expert has read this code and agrees to be bound by it, and
- (c) the qualifications of the expert to prepare the report, and
- (d) the assumptions and material facts on which each opinion expressed in the report is based (a letter of instructions may be annexed), and
- (e) the reasons for and any literature or other materials utilised in support of each such opinion, and
- (f) (if applicable) that a particular question, issue or matter falls outside the expert's field of expertise, and
- (g) any examinations, tests or other investigations on which the expert has relied, identifying the person who carried them out and that person's qualifications, and
- (h) the extent to which any opinion which the expert has expressed involves the acceptance of another person's opinion, the identification of that other person and the opinion expressed by that other person, and
- (i) a declaration that the expert has made all the inquiries which the expert believes are desirable and appropriate (save for any matters identified explicitly in the report), and that no matters of significance which the expert regards as relevant have, to the knowledge of the expert, been withheld from the court, and



- (j) any qualification of an opinion expressed in the report without which the report is or may be incomplete or inaccurate, and
- (k) whether any opinion expressed in the report is not a concluded opinion because of insufficient research or insufficient data or for any other reason, and
- (l) where the report is lengthy or complex, a brief summary of the report at the beginning of the report.

#### **4 Supplementary report following change of opinion**

- (1) Where an expert witness has provided to a party (or that party's legal representative) a report for use in court, and the expert thereafter changes his or her opinion on a material matter, the expert must forthwith provide to the party (or that party's legal representative) a supplementary report which must state, specify or provide the information referred to in clause 3(a), (d), (e), (g), (h), (i), (j), (k) and (l), and if applicable, clause 3(f).
- (2) In any subsequent report (whether prepared in accordance with subclause (1) or not), the expert may refer to material contained in the earlier report without repeating it.

#### **5 Duty to comply with the court's directions**

If directed to do so by the court, an expert witness must—

- (a) confer with any other expert witness, and
- (b) provide the court with a joint report specifying (as the case requires) matters agreed and matters not agreed and the reasons for the experts not agreeing, and
- (c) abide in a timely way by any direction of the court.

#### **6 Conferences of experts**

Each expert witness must—

- (a) exercise his or her independent judgment in relation to every conference in which the expert participates pursuant to a direction of the court and in relation to each report thereafter provided, and must not act on any instruction or request to withhold or avoid agreement, and
- (b) endeavour to reach agreement with the other expert witness (or witnesses) on any issue in dispute between them, or failing agreement, endeavour to identify and clarify the basis of disagreement on the issues which are in dispute.