



Special Commission of Inquiry into LGBTIQ hate crimes

26 April 2023

Dr Linda Iles
Victorian Institute of Forensic Medicine

By email: [REDACTED]

Dear Dr Iles,

Special Commission of Inquiry into LGBTIQ hate crimes: Review of material regarding Samantha Rose

I assist the Honourable Justice John Sackar in the Special Commission of Inquiry into LGBTIQ hate crimes (“the Inquiry”). Christine Melis, of counsel, and Jacqueline Krynda, senior solicitor, are assisting his Honour in his consideration of the death of Samantha Rose (“Ms Rose”). Thank you for your willingness to provide an expert report to the Inquiry from the perspective of a forensic pathologist.

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:

- 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

Ms Rose’s death is one of the unsolved deaths which his Honour is inquiring into pursuant to item A of the Letters Patent. On 22 December 1998, Ms Rose was found deceased in her home in Kensington. Her estimated time of death was between the afternoon of 20 December 1997 and the morning of 21 December 1997. On 18 November 1999, Deputy State Coroner John Abernethy found that Ms Rose died on 20 December 1997 due to head injuries inflicted by a person unknown.

Special Commission of Inquiry into LGBTIQ hate crimes

By this letter, you are briefed to prepare a written report in relation to Ms Rose's death to assist the Inquiry. It is requested that you provide your report no later than **16 May 2023**. In the event that you require further time to prepare your report, please advise Ms Krynda as soon as possible.

Background

To assist you in the preparation of your report, you are provided with the following background information in relation to Ms Rose. This information is provided by way of summary only and should not be treated as a comprehensive record or a substitute for your own review of the materials.

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.

Special Commission of Inquiry into LGBTIQ hate crimes

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.
16. 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 documents 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.

If there is any additional material that you consider would be of use to you in forming your opinion, please contact Ms Krynda 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. The adequacy of the post-mortem investigations conducted with respect to Ms Rose;
2. The manner and cause of Ms Rose's injuries;
3. Without limiting the matters which you may consider relevant to question 2, please outline your views regarding:
 - a. Whether it is possible that Ms Rose remained conscious and/or able to move for a period of time after she sustained her injuries and if so, for how long;
 - b. Whether Ms Rose's head injuries could have been sustained by a fall and/or contact with an object. If you consider the head injuries could have been sustained by an object, please state or describe the object.
4. Any recommendations for further medical investigations or expert opinion you consider would assist His Honour with respect to determining the manner and cause of Ms Rose's death.
5. Please provide any other comment, within your expertise, which you consider to be relevant to the manner and cause of Ms Rose's death.

The above questions are not intended to be exhaustive. Accordingly, if there is any matter arising from the circumstances of Ms Rose's death within your area of expertise on which you wish to express an opinion and which will be of assistance to his Honour, please do so.

I also request that you please attach a detailed curriculum vitae to your report.

Special Commission of Inquiry into LGBTIQ hate crimes

Expert Code of Conduct

I **enclose** a copy of the Expert Code of Conduct and ask that you read it carefully. In the report you should acknowledge that you have read the Code and agree to be bound by it. I suggest the following form of words be included in the body of your report:

“I, Dr Linda Iles, acknowledge for the purpose of Rule 31.23 of the Uniform Civil Procedure Rules 2005 that I have read the Expert Witness Code of Conduct in Schedule 7 to the said rules and agree to be bound by it.”

Conclusion

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

Yours faithfully,



Jacqueline Krynda
Senior Solicitor
Solicitor Assisting the Inquiry

Encl. 2



Special Commission of Inquiry into LGBTIQ hate crimes

DEATH OF SAMANTHA ROSE INDEX TO EXPERT BRIEF TO DR ILES

(as at 26 April 2023)

Tab	Document	Date	Reference No
VOLUME 1			
Formal Documents			
1.	P79A Report of death to the Coroner	22 December 1997	SCOI.00041.00014
2.	Autopsy report prepared by Dr Christopher Lawrence	23 December 1997	SCOI.00041.00016
3.	Toxicology report of Desdemona Esmeralda Albertyn	21 January 1998	SCOI.00041.00017
Photographs			
4.	Crime scene photographs (<i>SENSITIVE MATERIAL</i>)	22 December 1997	SCOI.10083.00025
5.	Autopsy photographs (<i>SENSITIVE MATERIAL</i>)	22 December 1997	SCOI.10083.00023
NSW Police Force statements and material			
6.	Statement of Detective Senior Constable Paul Michael Thornton (OIC)	23 October 1998	SCOI.00041.00005
7.	Statement of Detective Senior Constable Graem Allen Bush	14 October 1998	SCOI.10083.00015
8.	Statement of Detective Senior Constable Tim Mealing	21 September 1998	SCOI.00041.00025
9.	Statement of Graham John Sims	22 December 1997	SCOI.00041.00010
10.	Statement of Senior Constable Barry Thompson	23 December 1997	SCOI.00041.00006
11.	Statement of Senior Constable Maxwell John Sladden	23 December 1997	SCOI.00041.00007
12.	Statement of Senior Constable John Paul Byers	27 December 1997	SCOI.00041.00009
13.	Statement of Plain Clothes Senior Constable Andrew Bruce Pincham	4 January 1998	SCOI.00041.00020
14.	Statement of Detective Senior Constable Christopher William Goddard	23 July 1998	SCOI.00041.00018

Tab	Document	Date	Reference No
15.	Statement of Constable Kerralyn Patricia Waites	20 August 1998	SCOI.00041.00008
16.	Computer-aided sketch plan of crime scene	26 December 1997	SCOI.00041.00026
Family Statements			
17.	Statement of Bertha Rose (mother)	9 January 1998	SCOI.00041.00030
18.	Statement of Max Rose (father)	9 January 1998	SCOI.00041.00032
19.	Statement of Ian Grant Rose (brother)	22 December 1997	SCOI.00041.00034
Expert Reports and Statements			
20.	Letter from Dr Garry Levot (NSW Agriculture) re post-mortem interval	5 January 1998	SCOI.00041.00028
21.	Statement of Dr Alfred Steinbeck	21 January 1998	SCOI.00041.00083

Uniform Civil Procedure Rules 2005

Current version for 11 November 2022 to date (accessed 26 April 2023 at 08:53)

Schedule 7

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.