



Special Commission of Inquiry into LGBTIQ hate crimes

18 September 2023

Richard Yannakis


By email: 

Dear Mr Yannakis,

Special Commission of Inquiry into LGBTIQ hate crimes – Robert Malcolm

I assist the Honourable Justice John Sackar (“the Commissioner” in the Special Commission of Inquiry into LGBTIQ hate crimes (“the Inquiry”).

The Inquiry

On 13 April 2022 the Governor of NSW, by Letters Patent, issued a commission to the Commissioner to inquire into and report on historical LGBTIQ hate crimes. Specifically, the Letters Patent require the Commissioner to inquire into and report to the Governor and Premier on the following matters by 15 December 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.

Further information in relation to the background and conduct of the Inquiry can be found on the Inquiry’s website: www.specialcommission.nsw.gov.au.

Death of Robert Malcolm

One of the matters the Commissioner is considering pursuant to category A of the Letters Patent is the death of Robert Malcolm. As you will recall, Mr Malcolm died on 29 January 1992 at Royal Prince Alfred Hospital, after he was found severely injured on 11 January 1992 in an abandoned house in Holden Street, Redfern.

Special Commission of Inquiry into LGBTIQ hate crimes

I note that you were the officer in charge of the investigation into the death of Mr Malcolm, and that on 26 May 2023, you participated in a conference with staff of the Inquiry to discuss matters arising from your investigation. Lucinda Cooper-Hackman of counsel assisted you on a pro bono basis at that conference.

Documentary tender

On 7 July 2023, the Inquiry conducted a public hearing in relation to the death of Mr Malcolm. A bundle of documents was tendered into evidence in connection with the Inquiry's consideration of the matter. Those documents, which comprise Exhibit 56, are publicly available on the Inquiry's website using the following link: <https://www.specialcommission.nsw.gov.au/hearings/public-hearing-14-7-july-2023/>

Counsel Assisting made both written and oral submissions in relation to Mr Malcolm's death. Those submissions address, amongst other things, the steps taken during the initial NSWPF investigation. A copy of Counsel Assisting's written submissions is **enclosed** and can also be found on the Inquiry's website.

On 21 July 2023, the Inquiry received written submissions on behalf of the Commissioner of the NSWPF in connection with the death of Mr Malcolm. For ease of reference, a copy of those submissions is also **enclosed**.

Submissions

The NSWPF have advised the Inquiry they may not act for you, or *any* of the officers in charge of investigations that are being considered by the Inquiry pursuant to category A and B of the Letters Patent.

The *Special Commissions of Inquiry Act 1983* (NSW) ("*SCOI Act*") allows for a person who is substantially and directly interested in any subject-matter of the Inquiry to seek authorisation from the Commissioner to appear before the Inquiry, represented by counsel or a solicitor (see s. 12 of the *SCOI Act*).

Accordingly, if you wish to make written submissions beyond those made by the NSWPF in respect of the death of Mr Malcolm, please provide these to the Inquiry by no later than **10am on Friday, 6 October 2023**. You are not required to make such written submissions, or otherwise to participate in the Inquiry, if you do not wish to do so. However, if the Inquiry does not receive any contact from you by 6 October 2023, the Commissioner may proceed on the basis that you do not wish to make any submissions in relation to the death of Mr Malcolm.

If you have any queries in relation to this matter, please do not hesitate to contact Kate Lockery at

[REDACTED]
Yours faithfully,



Enzo Camporeale
Director, Legal
Solicitor Assisting the Inquiry