

Statement from Nicholas Cowdery, former New South Wales DPP:

The allegation against Harwin involved a novel law (the Public Health Order) that was inexactly worded. His actions left open a reasonable excuse for his movements. In those circumstances, regardless of the identity or position of the suspect, police should have sought legal advice before charging. The DPP provided the advice, in effect, by discontinuing the action.

The other worrying aspect is that police appear to have dug themselves into a hole by prematurely tipping off compliant media outlets. The only motive for that must have been to big-note themselves and curry media favour. That is becoming all too common and carries the risk of distorting proper process, as happened in this case.