OFFICE OF THE STATE CORONER

FINDINGS OF INQUEST

CITATION:	**Inquest into the death of Barry John Hockey**
TITLE OF COURT:	Coroner's Court
JURISDICTION:	Brisbane
FILE NO(s):	COR 0008/08(7)
DELIVERED ON:	05 March 2010
DELIVERED AT:	Brisbane
HEARING DATE(s):	04 March 2010
FINDINGS OF:	Mr Michael Barnes, State Coroner
CATCHWORDS:	Coroners: inquest, death in custody, natural causes; adequacy of medical care

REPRESENTATION:

Counsel Assisting:	Ms Ainslie Kirkegaard
Department of Community Safety:	Ms Antonietta Kersten
Queensland Health, Offender Health Services:	Mr Peter Brockett

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The *Coroners Act 2003* provides in s45 that when an inquest is held into a death in custody, the coroner's written findings must be given to the family of the person who died, each of the persons or organisations granted leave to appear at the inquest and to various officials with responsibility for the justice system. These are my findings in relation to the death of Barry John Hockey. They will be distributed in accordance with the requirements of the Act and posted on the web site of the Office of State Coroner.

Introduction

Mr Hockey was a 58 year old man who died in the Princess Alexandra Hospital Secure Unit on 29 December 2007. At the time of his death, Mr Hockey was serving a three-and-a-half year custodial sentence at the Wolston Correctional Centre (WCC).

On 16 November 2007, Mr Hockey was admitted to the PAH Secure Unit with a three week history of worsening shortness of breath, a persistent productive cough, significant weight loss, night sweats and fevers. During this admission, he was diagnosed with advanced lung cancer with a limited life expectancy. He was discharged on 27 November 2007, with plans to start palliative chemotherapy the following week. He was readmitted to hospital twice over the following month to manage his worsening symptoms. Mr Hockey died in the PAH Secure Unit on 29 December 2007.

Because Mr Hockey's death was a "death in custody" within the terms of the Act it was reported to the State Coroner for investigation and inquest.[1]

These findings:

- confirm the identity of the deceased, the time, place, circumstances and medical cause of his death;
- consider whether the actions or inactions of any person contributed to his death;
- consider whether the medical treatment afforded to him while in custody was adequate and reasonable; and
- consider whether any changes to procedures or policies could reduce the likelihood of deaths occurring in similar circumstances or otherwise contribute to public health and safety or the administration of justice.

The investigation

Detective Senior Constable Pamela Byres, then of the QPS Corrective Services Investigation Unit (CSIU), conducted the investigation. I note that at the time of completing this investigation, Detective Senior Constable Byres had attained the

[1] s8(3) defines "*reportable death*" to include deaths in custody and s7(2) requires that such deaths be reported to the state corners or deputy state coroner. S27 requires an inquest be held in relation to all deaths in custody

rank of Sergeant and is now known by the surname Leech. I will refer to her as Sergeant Leech in these findings.

The hospital reported Mr Hockey's death to the Dutton Park police station after the death was pronounced at 9:50am. Officers from both Dutton Park station and CSIU attended the scene that morning.

Mr Hockey's body had remained in situ in a single occupant room in the PAH Secure Unit. A physical examination of Mr Hockey's body, performed by the CSIU officers, did not reveal any signs of injury or trauma. A room search revealed nothing suspicious. The room was photographed by a Scenes of Crime Officer during the search. CSIU officers seized Mr Hockey's clothes and the PAH medical records.

Mr George Tully, prison chaplain and Mr Hockey's principal support person, formally identified the body at the scene shortly after 1:00pm that day. Police then accompanied Mr Hockey's body to the Queensland Health Forensic and Scientific Services mortuary for autopsy.

Dr Nathan Milne, an experienced forensic pathologist, performed an external and full internal autopsy on the morning of 31 December 2007. The autopsy was observed by representatives of CSIU and the QPS Coronial Support Unit.

Further inquiries made by CSIU about the circumstances of Mr Hockey's incarceration, his medical history, recent hospital admissions and the circumstances of his death included obtaining:

- Mr Hockey's criminal history and offender movement history;
- Queensland Ambulance Service records;
- a detailed statement from the consultant physician responsible for Mr Hockey's treatment, Dr Geoff Eather, about Mr Hockey's clinical management from the initial admission on 16 November 2007 to his death;
- a statement from a nurse who had cared for Mr Hockey since his readmission on 28 December 2007 and who was with him when he died; and
- statements from his principal support person, Mr George Tully, and Mr Hockey's estranged wife.

The investigation was not finalised until nearly two years after Mr Hockey's death. Given the relatively straightforward circumstances of Mr Hockey's death, I consider the investigation could have been progressed in a more timely manner. This criticism aside, I consider the scope of the investigation was appropriate. I thank Sergeant Leech for her assistance.

The Office of the State Coroner supplemented the findings of Sergeant Leech's investigation by obtaining the medical records maintained by the WCC medical centre. Associate Professor Bob Hoskins, Director of the Queensland Health Clinical Forensic Medicine Unit, subsequently reviewed this material and the PAH medical records to assess whether Mr Hockey was given appropriate access to, and received adequate medical treatment during his incarceration and in the months prior to his death.

The inquest

An inquest was held in Brisbane on 4 March 2010. Ms Kirkegaard was appointed as counsel to assist me. Leave to appear was granted to the Department of Community Safety and Queensland Health, Offender Health Services.

All of the statements, photographs and materials gathered during the investigation were tendered.

Ms Kirkegaard submitted that the material tendered was such that I would be in a position to make findings without calling any oral evidence. She had discussed this proposed course with Mr Hockey's next of kin and they had no concerns about the proposal, nor did they wish to have any other issues ventilated at the inquest. There were no submissions from any other parties to the effect that oral evidence should be called.

I determined the evidence contained in the exhibits was sufficient to enable me to make the findings required by the Act and that there was no other purpose which would warrant any witnesses being called to give oral evidence.

The evidence

I turn now to the evidence. Rather than summarise all of the information contained in the exhibits, I consider it appropriate to record in these reasons, the evidence I believe is necessary to understand the findings I have made.

Personal Background

Mr Hockey was born in Lismore, New South Wales on 27 October 1949. He was the youngest of seven siblings. Sadly, Mr Hockey spent most of his life in institutions. He was placed in a church orphanage at six months of age, after his mother, who suffered from Parkinson's disease, went into a nursing home. He remained in the orphanage until he was fifteen years old. He experienced both physical and sexual abuse during this period of his life. He left high school before completing Year 10.

After leaving school and the orphanage, Mr Hockey worked a variety of jobs ending up in catering, until he was 21 years old. From then, he spent most of his adult life in custody in Victoria, New South Wales and Queensland. His offending began with mostly fraud and stealing but escalated from the late 1980s with convictions for a range of serious offences, including deprivation of liberty, indecent assault, rape and unlawful wounding with intent to do grievous bodily harm. Alcohol was consistently a significant factor in his offending over the years.

At the time of his death, Mr Hockey had spent roughly 46 of his 58 years in an institution (15 in an orphanage and 31 in prison). A psychiatric assessment contained in his Corrective Services records comments that Mr Hockey had spent so long in institutions that the general community was a "*strange and foreign world*" to him, whereas prison was a "*safe, secure, unchallenging haven*". The Corrective Services records note that Mr Hockey was regularly compliant and succeeded in holding a range of responsible employment positions during his many years of incarceration. He was employed as a chef and in a statement

taken by the investigating officer from Mr Hockey's principal support person, he was described as an exceptional cook.

Mr Hockey was married in 1987. The relationship was short lived, though he and his wife didn't ever divorce. He had one child from that relationship. The statement provided by Mr Hockey's wife reveals that he maintained sporadic contact with her over the years but due to his many years in custody, he had no contact with his daughter after she was about three years of age.

The statement provided by Mr Hockey's principal support person, Mr George Tully, indicates that he had known Mr Hockey since late 1990. Mr Hockey spent much of his leave of absence time with Mr Tully's family and lived with them from late1994 to 1997. Mr Hockey would phone Mr Tully every Saturday whenever he was in custody.

Basis for most recent incarceration

At the time of his death, Mr Hockey was serving a three and a half year custodial sentence for convictions of attempted kidnapping, unlawful use of a motor vehicle, break and enter and stealing offences. He was sentenced for these convictions by the Ipswich District Court on 22 August 2005.

Mr Hockey started serving his sentence on 29 June 2005 as an inmate of the Arthur Gorrie Correctional Centre. He was transferred to WCC on 9 November 2005. He was transferred in and out of the PAH Secure Unit several times after this before the final admission on 28 December 2007, during which he died.

Mr Hockey's medical history

Medical records from both WCC and the PAH show that Mr Hockey had a history of alcoholism, heavy lifelong smoking, emphysema, gastro-oesophageal reflux disease (including a perforated duodenal ulcer and vagotomy in 1986) and anxiety disorder.

In late May 2005, ultrasound examination confirmed an abdominal aortic aneurism that had been detected by x-rays ordered by Mr Hockey's general practitioner, prior to Mr Hockey's reception at the Arthur Gorrie Correctional Centre on 9 May 2005.

After being transferred to WCC in early November 2005, Mr Hockey presented to the WCC medical centre with occasional minor health complaints until May 2007. Over the following four months, Mr Hockey presented to the WCC medical centre on three occasions with symptoms suggestive of a recurrent chest infection. He was referred for chest x-rays and prescribed antibiotics. The WCC medical notes indicate that his chest complaint initially responded to this course of treatment.

Diagnosis of adenocarcinoma

The WCC medical records show that in late October and early November 2007, Mr Hockey presented to the WCC medical centre on three occasions with increasing shortness of breath and a persistent cough that was producing brown sputum. He was reviewed by a medical officer who ordered a chest x-ray and prescribed several courses of antibiotics.

Mr Hockey was reviewed by a medical officer again on 16 November 2007. His symptoms had not responded to the antibiotics. He had lost almost eight kilograms in weight over the previous two months and had night sweats and fevers. His shortness of breath was such that he could not walk short distances without oxygen. The WWC medical notes indicate a possible diagnosis of bronchopneumonia and the need to exclude lung cancer. He was transferred to the PAH Secure Unit that day for further medical investigation.

The PAH medical notes indicate that on admission, Mr Hockey presented with clinical signs consistent with a right sided pleural effusion. This was confirmed by an initial chest x-ray. A pleural tap subsequently drained 1.2L of fluid from his lungs. He was also treated with broad spectrum antibiotics.

Lung function testing during this admission confirmed moderately severe chronic obstructive pulmonary disease.

Testing of the drained pleural fluid ultimately confirmed the presence of malignant cells, with characteristics consistent with primary lung adenocarcinoma. A subsequent CT chest scan confirmed pulmonary metastatic disease with probable lymphangitis and mediastinal lymphadenopathy.

The investigating officer obtained a statement from Dr Geoff Eather, the consultant respiratory and sleep physician, who became responsible for Mr Hockey's care from 22 November 2007. This statement provided a very detailed and clear summary of the clinical management of Mr Hockey's condition that has been of great assistance to this inquest.

Dr Eather's statement indicates that Mr Hockey's case was discussed at the hospital's lung cancer conference on 22 November 2007. His malignancy was staged as a metastasised adenocarcinoma originating in the lung. The meeting recommended treatment including draining the pleural effusion and pleurodesis should the pleural effusion recur; trialling oral corticosteroid therapy for the lymphangitis; referral for consideration of palliative chemotherapy and referral to the palliative care service.

Dr Eather's statement notes that Mr Hockey responded to pleural drainage and oral corticosteroids, with a significant improvement in his shortness of breath. He was reviewed by a medical oncologist on 27 November 2007, who spoke to him in some detail about the role of palliative chemotherapy. I note that in a letter to the WCC dated 27 November 2007, oncologist indicates that Mr Hockey understood his condition was incurable and that chemotherapy was unlikely to have a significant impact on his life expectancy. Mr Hockey was noted as being keen to proceed and arrangements were made to start chemotherapy on 6 December 2007. He was also reviewed by the palliative care team who prescribed Endone to manage his shortness of breath. In view of his satisfactory response to treatment to this point, Mr Hockey was discharged on 27 November 2007, with plans for outpatient follow up.

I note in a letter to the South East Queensland Regional Community Corrections Board dated 23 November 2007, Dr Eather's RMO advised that the long term prognosis for the majority of patients with this type of disease is poor, with life expectancy usually measuring months, rather than years. Statements from Mr

Hockey's wife and his principal support person, Mr George Tully, indicate that Mr Hockey understood that his condition was terminal and that he had only months to live. Mr Tully's statement suggests that Mr Hockey was prepared to accept this reality. This is supported by notations in the WCC medical records that he talked freely about his diagnosis upon his return from hospital.

Readmission to hospital

Mr Hockey was to start palliative chemotherapy as an outpatient on 6 December 2007. However, Dr Eather's statement and the PAH medical records show that he was readmitted to the PAH Secure Unit from the medical oncology unit on that day with recurrent shortness of breath. This was found to be caused by a worsening right sided pleural effusion.

An intercostal catheter was inserted on 7 December 2007 and immediately drained one litre of fluid from Mr Hockey's lungs. He required prolonged intercostal catheter drainage with suction and ultimately, a talc pleurodesis was performed on 14 December 2007 to reduce the cavity left by the drained pleural effusion.

Mr Hockey received his first dose of chemotherapy on 13 December 2007. He was given Carboplatin and Gemcitabine on this occasion.

Mr Hockey's condition improved over the following days. He was discharged on 17 November 2007 to be reviewed in a week's time for chemotherapy and a repeat chest x-ray.

Mr Hockey was subsequently reviewed by the PAH Medical Oncology Unit on 20 December 2007. He received a further dose of Gemcitabine on this occasion. He was scheduled to receive his next dose of chemotherapy on 3 January 2008.

Final admission to hospital

The WCC medical notes show that over the following week, Mr Hockey was coughing up more bloody sputum and experiencing increased breathlessness and pain, despite receiving palliative doses of Endone to manage these symptoms. After being reviewed by a nurse at the medical centre in the morning of 28 December 2007, Mr Hockey was transferred by ambulance to the PAH Secure Unit for medical review.

Medical examination revealed a recurrence of the right sided pleural effusion. Mr Hockey was readmitted under the care of Dr Eather. Dr Eather's statement and the PAH medical records show that Mr Hockey was treated with supplemental oxygen, broad spectrum intravenous antibiotics and corticosteroid therapy. Between 5:00pm and 8:00pm that day, Mr Hockey's blood pressure fell and his heart rate rose dramatically. He was also noted to have developed atrial fibrillation at about this time. His condition deteriorated rapidly over the course of that evening.

Mr Hockey's condition continued to deteriorate into the early hours of 29 December 2007. He gradually lost consciousness. He was reviewed by both medical ward call and the medical registrar during this decline. At about 6:00am, Dr Eather's senior registrar, Dr Dan Smith phoned George Tully in his capacity as Mr Hockey's principal support person. Mr Tully attended the hospital and

following a discussion with Dr Smith, agreed that given Mr Hockey's advanced lung malignancy and his progressive deterioration, Mr Hockey should be given comfort cares only.

Mr Tully's statement indicates that he stayed with Mr Hockey for about half an hour, during which time Mr Hockey remained unconscious.

The nursing notes show that Mr Hockey continued to deteriorate during the morning. A statement obtained from registered nurse Bridgette Mortimer, who was caring for Mr Hockey, reveals that by 9:15am, it was apparent that Mr Hockey was close to death. He was given comfort cares at 9:30am and died in the presence of Nurse Mortimer and another nurse at 9:35am. The resident medical officer, Dr Teng, pronounced Mr Hockey's death at 9:50am.

Adequacy of medical treatment

Dr Bob Hoskins, Director of Queensland Health's Clinical and Forensic Medicine Unit (CFMU) was asked to review the WCC and PAH medical records to assess whether Mr Hockey was given appropriate access to, and received adequate medical treatment during his incarceration and in the months prior to his death.

Dr Hoskins advised that in his opinion Mr Hockey received appropriate intervention at each stage of the progression of his irreversible disease.

Autopsy

Dr Nathan Milne, an experienced forensic pathologist, performed an external and full internal autopsy on the morning of 31 December 2007.

The examination showed no evidence of injury. It confirmed the clinical diagnosis of adenocarcinoma of the right lung, which Dr Milne considered to be the cause of Mr Hockey's death. Histology showed that the tumour had spread extensively through the lymphatic channels of both lungs and was also identified in lymph nodes. There were significant secondary changes in the lungs related to the tumour, including acute bronchopneumonia, which Dr Milne considered would also have contributed to Mr Hockey's death.

The examination also revealed other conditions that Dr Milne considered would have contributed to Mr Hockey's death, namely emphysema and a degree of coronary atherosclerosis severe enough to have caused a heart attack or sudden death at any time.

Toxicological examination of the post mortem blood was consistent with the palliative administration of morphine and paracetamol to Mr Hockey during the final hours of his life. Dr Hoskins reviewed this aspect of the autopsy findings. I note his advice that in the context of painful terminal malignancy, the use of high dose opiates, including morphine, is appropriate and humane.

Toxicology was also performed on a hospital blood specimen taken from Mr Hockey at 10:35am on the morning of his final admission. The results were consistent with medication prescribed to Mr Hockey but showed raised levels of the antidepressant, paroxetine, and the narcotic analgesic, oxycodone. The

concentrations of both these drugs were found to be greater than the usual therapeutic range, but less than a potentially fatal level. Dr Milne considered mixed drug toxicity to have also contributed to Mr Hockey's death.

Dr Milne could not determine why these drug levels were raised. I note Dr Hoskins' advice that he found nothing in the clinical picture to suggest Mr Hockey was suffering from either opiate or paroxetine toxicity, nor was there anything to suggest that paroxetine, oxycodone or morphine were given at an inappropriate dose or frequency.

Dr Hoskins considered that the recorded doses of paroxetine and oxycodone would not be expected to give rise to the blood levels detected by toxicology. Although he could not explain why the levels were elevated, Dr Hoskins considered there was nothing in the clinical picture to suggest that those levels actually caused any adverse effects.

Taking Dr Hoskin's opinion into account, I consider that the autopsy examination and toxicology results are not suggestive of anything suspicious having occurred in respect of Mr Hockey's death.

Investigation findings

Mr Hockey's body was identified by his principal support person, George Tully, at the scene. Physical examination of Mr Hockey's body in situ revealed no signs of injury or trauma. A search of the hospital cubicle in which he died revealed nothing suspicious.

Autopsy examination confirmed the clinical diagnosis of adenocarcinoma of the right lung. Although neither the autopsy nor independent medical review could explain the elevated levels of oxycodone and paroxetine in the hospital blood samples taken the day before Mr Hockey died, I accept Dr Hoskins' opinion that there was nothing in the clinical picture to suggest that Mr Hockey was given oxycodone, morphine or paroxetine in inappropriate doses or frequency or that he was suffering from opiate or paroxetine toxicity.

Independent medical review confirmed that Mr Hockey received appropriate medical treatment in both WCC and the PAH Secure Unit during his incarceration.

No evidence suggested anything other than a death by natural causes.

Findings required by s45

I am required to find, as far as is possible, the medical cause of death, who the deceased person was and when, where and how he came by his death. As a result of considering all of the material contained in the exhibits, I am able to make the following findings in relation to the other aspects of the matter.

Identity of the deceased – The deceased person was Barry John Hockey who was born in Lismore, New South Wales on 27 October 1949.

How he died – Mr Hockey died of natural causes while a prisoner at the Wolston Correctional Centre.

Place of death – He died at the Princess Alexandra Hospital Secure Unit.

Date of death – Mr Hockey died on 29 December 2007.

Cause of death – He died from adenocarcinoma of the right lung.

Comments and recommendations

Section 46, insofar as it is relevant to this matter, provides that a coroner may comment on anything connected with a death that relates to public health or safety, the administration of justice or ways to prevent deaths from happening in similar circumstances in the future.

I have found that Mr Hockey died of natural causes and that no other person contributed in any way to his death. I consider he received an appropriate standard of medical care in the months and days preceding his death.

In the circumstances, I consider there is no basis on which I could make any preventative recommendations.

I close the Inquest.

Michael Barnes
State Coroner
Brisbane
05 March 2010