



CORONERS COURT OF QUEENSLAND

FINDINGS OF INQUEST

CITATION: **Inquest into the death of Mark Graham Newstead**

TITLE OF COURT: Coroners Court

JURISDICTION: BRISBANE

FILE NO(s): 2018/1018

DELIVERED ON: 25 May 2020

DELIVERED AT: Brisbane

HEARING DATE(s): 25 May 2020

FINDINGS OF: Terry Ryan, State Coroner

CATCHWORDS: Coroners: inquest, death in custody, natural causes.

REPRESENTATION:

Counsel Assisting: Ms Rhiannon Helsen

Queensland Corrective Services: Ms Vanessa Price

Princess Alexandra Hospital: Ms Fiona Banwell

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Introduction

1. Mark Graham Newstead was 51 years of age when he died on 4 March 2018 at the Princess Alexandra Hospital (PAH) Secure Unit. On 2 January 2018 he had been remanded in custody for charges including fraud, stealing and drug possession. He was placed at the Brisbane Correctional Centre (BCC) on 4 January 2018.
2. Mr Newstead died as a result of metastatic small round cell tumour. He was diagnosed with this shortly before his death and it was not treatable.

Police investigation

3. An investigation into the circumstances leading to Mr Newstead's death was undertaken on my behalf by Plain Clothes Senior Constable Penelope McEwen from the Queensland Police Service (QPS) Corrective Services Investigation Unit (CSIU). I am satisfied that this investigation was suitably comprehensive in the circumstances.
4. After being notified of Mr Newstead's death, CSIU officers attended the PAH on 4 March 2018. Mr Newstead's correctional records and his medical files from BCC and the PAH were obtained.
5. The CSIU investigation was informed by statements from relevant custodial correctional officers and nursing staff and medical officers at the PAH, including Mr Newstead's treating palliative and general medicine specialists. These statements were tendered at the inquest.
6. On the basis of the evidence obtained, PCSC McEwen provided a report dated 8 April 2019 which concluded that Mr Newstead had died of natural causes and was provided with adequate medical care and attention while he was in the custody of Queensland Corrective Services.¹ There were no suspicious circumstances surrounding his death, nor any omission by any person which may have contributed to or caused it.
7. Mr Newstead was estranged from his family. Police spoke to his mother who indicated that she had extremely limited telephone contact with her son. She was unable to provide any further information about his recent health issues.

The inquest

8. Mr Newstead died from natural causes. However, as he died in custody an inquest was required by s 27 of the *Coroners Act 2003*. The inquest was held on 25 May 2020. All of the statements, medical records and material gathered during the investigation into Mr Newstead's death were tendered to the court. Counsel Assisting proceeded immediately to submissions in lieu of any oral testimony being heard.

¹ Exhibit A5

The Evidence

Personal circumstances and correctional history

9. Mr Newstead was born on 21 September 1966. He had an extensive Queensland criminal history dating back to 1978. He served 11 periods of imprisonment for various offences, including property and drug offences, as well as fraud.
10. Mr Newstead had a lengthy history of engagement with mental health services and was a voluntary patient of the Logan Mental Health Service at the time of his death. He had multiple admissions to mental health units from 1994-2014, usually due to poor compliance to oral medications and ongoing illicit substance use. He was managed as an involuntary patient most of the time and frequently required depot anti-psychotic medication. He was managed under the *Mental Health Act* from 2006-2014. Mr Newstead's diagnosis at that time was paranoid schizophrenia.²
11. On 9 August 2017, the Queensland Civil and Administrative Tribunal (QCAT) appointed the Public Guardian as Mr Newstead's guardian for the provision of services.³ The scope of this appointment was extended on 4 September 2017 to include decisions around legal matters, which was to remain current for three months. On 28 November 2017, QCAT appointed the Public Guardian as guardian for Mr Newstead's personal matters relating to accommodation, health care and the provision of services, including legal matters.⁴
12. Mr Newstead was detained by police officers under an Emergency Examination Authority on 25 December 2017 after police had been called to Mr Newstead's home. He told police he had not taken his medication for approximately three weeks and wanted to kill himself. He also told police that since stopping taking his medication, he had been hearing voices telling him to self-harm.
13. On 5 February 2018, the Public Guardian gave consent for Mr Newstead to undergo palliative radiotherapy to the thoracic spine at the PAH. Further testing was also consented to with respect to an aspirate bone marrow with trephine to be carried out on 7 February 2018. Following a diagnosis of terminal cancer on 14 February 2018, consent was given for various life sustaining measures to be withheld.⁵
14. Prior to being imprisoned in January 2018, he was largely itinerant as a result of ongoing substance abuse issues. On 2 January 2018, Mr Newstead was remanded in custody from the Southport Magistrates Court to the BCC after being charged with fraud, stealing and drug offences. He was to appear at the Southport Magistrates Court on 9 March 2018.

² Exhibit F1

³ Exhibits G1 & G2

⁴ Exhibit G1

⁵ Exhibit G1

Medical history

15. During the last short period on remand at BCC, Mr Newstead was assessed on three occasions by medical practitioner, Dr William Lethbridge. This was primarily for treatment of injuries, including fractured ribs and clavicles, which he had sustained as a result of an assault in November 2017, when he was not incarcerated. He was continued on medications previously prescribed for long standing medical issues and pain associated with the assault.⁶

Events leading up to death

16. Mr Newstead's medical background was notable for the following conditions:

- Intravenous drug use;
- Untreated Hepatitis C with associated liver cirrhosis, splenomegaly and portal hypertension;
- Chronic Paranoid Schizophrenia;
- Intellectual Impairment;
- Type 2 Diabetes;
- Hypertension;
- Gastro-Oesophageal reflux; and
- Lower back pain

17. On 14 January 2018, Mr Newstead reported groin pain and some difficulty passing urine for which he was medically assessed. He was seen again by nursing staff the following day and was not experiencing any continued urinary difficulties. A sample was sent for testing to exclude a possible infection.

18. On 25 January 2018, Mr Newstead reported an inability to pass urine with the onset of lower limb weakness. He was transported to the emergency department of the PAH for treatment.

19. Upon assessment at the PAH, Mr Newstead indicated that he had been experiencing some difficulties passing urine for around three weeks, had suffered with back pain and also lost around 20kg in weight. Examination revealed spinal tenderness in the chest and pelvic regions with reduced power of the lower limbs.

20. An urgent MRI showed evidence of an epidural abscess causing severe spinal cord stenosis with an associated pathological fracture of the third thoracic vertebrae.⁷ Also seen were lesions in the twelfth thoracic and first lumbar vertebrae that were thought to be abscesses or less likely metastases given they were not present on a CT scan performed on 28 December 2017. Intravenous antibiotics were administered to ensure the possibility of an infection was addressed.

21. Mr Newstead was assessed and admitted under the Orthopaedic Spinal team. He was taken to theatre for an urgent right sided T2 hemi-laminectomy with canal debridement and decompression. The procedure was performed without any complications.

⁶ Exhibit B3, pages 8 and 11

⁷ Exhibit B1, p5

22. No neurological improvement was recorded post-operatively with Mr Newstead developing progressive weakness leading to a complete loss of muscle function. A further MRI was performed, which showed a reduction in the degree of cord compression but residual cord swelling, which was thought to be more suggestive of malignancy rather than infection.
23. Histopathology findings obtained on 1 February 2018 were consistent with a malignant small round cell tumour, likely Ewing's Sarcoma (a bone or soft tissue cancer). On 5 February 2018, Mr Newstead was commenced on a course of radiotherapy to his thoracic spine. This was intended to provide pain relief rather than enable him to regain neurological function.⁸
24. On 8 February 2018, a Positron Emission Tomography (PET) scan confirmed that he had widespread Advanced Metastatic Ewing's Sarcoma that was not amenable to treatment. The following day he commenced palliative care with the consent of the Public Guardian. He was formally transferred to the Palliative Care Team at the PAH on 12 February 2018.
25. An Acute Resuscitation Plan was put into place in consultation with the Public Guardian, which noted that Mr Newstead was not for cardiopulmonary resuscitation or intensive care, with comfort measures to be provided only. As anticipated, his condition continued to decline.
26. It is not clear from the material provided as to whether a formal application for parole on compassionate grounds was submitted on Mr Newstead's behalf. A letter was sent from the Palliative Care Team to BCC on 22 February 2018 seeking compassionate release to a palliative care unit for end of life care. However, it seems Mr Newstead's condition deteriorated before a formal decision was made. In the last days of his life, he also developed a terminal agitation accompanied by screaming and aggression, which required appropriate review and escalation of his terminal symptom management by the Palliative Care Team.
27. On 4 March 2018, Mr Newstead was accommodated in room 19 of the PAH Secure Unit. Two correctional officers were present. At around 11:10 pm that evening, nursing staff were alerted to the fact that he seemed to be nearing the end of his life. He was declared deceased at 11:42 pm.

Autopsy results

28. On 7 March 2018, an external only autopsy was conducted at Queensland Health Forensic and Scientific Services by Pathologist, Dr Bianca Phillips.
29. CT scans showed coronary artery calcifications, opacification of the posterior lungs, ascites, bilateral healing clavicle and rib fractures and a thoracic vertebral fracture.
30. Having considered the Police Form 1, medical history and the external post mortem examination, Mr Newstead's cause of death was found to be metastatic small round cell tumour. Other significant conditions found to have contributed to his death were liver cirrhosis, diabetes, hypertension and schizophrenia.⁹

⁸ Exhibit B1, pp7-8

⁹ Exhibit A4.

CFMU Review

31. At the request of the Coroners Court, Dr Ian Home, Forensic Medical Officer, Clinical Forensic Medicine Unit (CFMU) examined the autopsy report and Mr Newstead's medical records. Dr Home was asked to comment on the health care provided to Mr Newstead in the lead up to his death.
32. In Dr Home's opinion, Mr Newstead was managed appropriately by Offender Health Services with input from the Public Guardian. The presence of malignancy could not have been predicted earlier based on the symptoms reported. While Mr Newstead informed nurses at the BCC that he was having difficulty passing urine on 14 January 2018, he was still able to void at that time. Those symptoms might have related to a number of causes, including infection, constipation or age-related prostate enlargement.
33. When Mr Newstead was reviewed the following day, there was no indication on history or examination of ongoing urinary difficulties. In relation to the ongoing reports of pain, primarily in his ribs, this was reasonably attributed to his recent assault. He was transported to the PAH promptly on 25 January 2018 after developing further difficulties. Dr Home noted that given the absence of findings on a CT scan in 2017, it is presumed that the only method of identifying a malignancy would have been an MRI scan, which would only have been performed once neurological symptoms presented.
34. Dr Home raised no concerns or criticism about the care and treatment provided to Mr Newstead by Offender Health Services or the PAH.

Conclusions

35. Mr Newstead's death was the subject of a comprehensive police investigation. I accept that his death was from natural causes and that there were no suspicious circumstances associated with it.
36. On the basis of Dr Home's opinion, I am satisfied that Mr Newstead was given appropriate medical care by staff at BCC and at the PAH while he was admitted there. His death could not reasonably have been prevented.
37. It is a recognised principle that the health care provided to prisoners should not be off a lesser standard than that provided to other members of the community. The evidence tendered at the inquest established the adequacy of the medical care provided to Mr Newstead when measured against this benchmark.
38. In considering this matter, I also had the benefit of written submissions from QCS, who advised that they agreed with the findings of PCSC McEwen and the opinion of Dr Home.

Findings required by s. 45

39. 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. After considering all of the evidence, including the material contained in the exhibits, I am able to make the following findings:

Identity of the deceased –	Mark Graham Newstead
How he died –	Mr Newstead was remanded in custody for property and drug offences on 4 January 2018. He had been admitted to hospital on 25 January 2018 with acute urinary retention, altered sensation and bilateral limb weakness. He was given immediate surgical treatment and radiotherapy and was diagnosed with cancer in early February 2018. The disease could not be treated and he received palliative treatment up until his death.
Place of death –	Princess Alexandra Hospital, Woolloongabba in the State of Queensland
Date of death–	4 March 2018
Cause of death-	The medical cause of death was metastatic small round cell malignancy. Other significant conditions were Liver cirrhosis (hepatitis C), diabetes mellitus, hypertension and schizophrenia.

40. The *Coroners Act 2003* enables a coroner to 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. In the circumstances, I accept that there are no comments or recommendations to be made that would assist in preventing similar deaths in future, or that otherwise relate to public health or safety or the administration of justice.

41. I close the inquest.

Terry Ryan
State Coroner
BRISBANE
25 May 2020