



CORONERS COURT OF QUEENSLAND

FINDINGS OF INQUEST

CITATION: **Inquest into the death of Mr D**

TITLE OF COURT: Coroner's Court

JURISDICTION: Brisbane

DATE: 11 September 2017

FILE NO(s): 2015/4993

FINDINGS OF: Christine Clements, Brisbane Coroner

CATCHWORDS: Inadvertent overdose, mixed drug toxicity including heroin and methamphetamine

REPRESENTATION:

Counsel Assisting: Ms H Ahern

Family: Mr M Copley QC i/b Peter Shields Lawyers

Detective Sergeant Stephen Gilfoyle;
Plain Clothes Constable Kristy Cleal: Mr Troy Schmidt

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Introduction

1. The deceased was born overseas on 21 February 1979. He died on 18 December 2015 in unit 26 at City Palms Motel in Brunswick Street Fortitude Valley, Brisbane, Queensland.
2. The deceased was 36 years of age at the time of his death and was living in regional Queensland. His death was reported to the coroner as the circumstances suggested he died due to an overdose of illicit drugs. His family requested an inquest due to the uncertainty around the circumstances of his death and their concerns that others might have been involved or caused his sudden death. The State Coroner considered there was sufficient public interest requiring the inquest which was convened on 17 July 2017.
3. The purpose of an inquest is to reach findings if possible as required by section 45 of the *Coroners Act 2003*. The coroner must determine;
 - (i) who the deceased person is;
 - (ii) how the person died;
 - (iii) when the person died;
 - (iv) where the person died;
 - (v) what caused the person to die.
4. The deceased person's family was legally represented as was the investigating Queensland Police Services officers. Counsel assisting the court called two investigating police officers and one civilian witness, 'A'. Investigation documents and records were submitted in the inquest. Preliminary applications were made by counsel assisting who sought a non-publication order relating to two civilian witnesses not called before the Court. The request was made due to ongoing police investigations of drugs supply/trafficking offences involving these two witnesses. Neither of these two witnesses has been charged with causing the deceased's death.
5. It is vital that coronial investigations do not interfere or impede or have the potential to impact upon criminal proceedings that have not been finalised. I am satisfied that in this case it is appropriate to prohibit the publication of the names of the two witnesses for these reasons. The witnesses will be referred to as 'Y' and 'Z'.
6. It is also within the Court's discretion to prohibit the name of the deceased person upon application by the family having regard to their sensitivities and personal circumstances. Such an order will not impede factual findings which, in this case will focus on whether the death;
 - (i) involved anyone other than the deceased,
 - (ii) was inadvertent, or
 - (iii) deliberately intended.
7. Resolving these factual issues in a way which publicly identifies the deceased would cause the family, particularly his elderly parents, unnecessary distress. Therefore it

is ordered that the deceased's name or anything else which would tend to identify him is prohibited.

Recent background of deceased person

8. This court knows little of the personal circumstances of the deceased, and only some of his recent history. He lived in regional Queensland. In April 2015 he was convicted and sentenced for a number of offences which occurred in January 2015. He was sentenced to 18 months imprisonment and was released by the Parole Board on 12 months parole from 24 October 2015.
9. None of the charges for which he was imprisoned specifically related to drug use. It was however stated by investigating police without challenge from his family that he had a history of intravenous drug use. His death and the surrounding circumstances were unexpected by his family who believed he was 'clean' at the time of his death. Since his release from prison he had been in regular contact with his parents, sisters and brother in law who lived interstate. Whilst in prison he worked as a chef and successfully undertook studies which he hoped would lead to employment opportunities upon his release.
10. He was reporting regularly as required by his parole officer. On 13 November 2015 he attended and made general enquiries about the process to transfer his parole within Queensland, or interstate. He also enquired about the possibility of international travel.
11. On 26 November he attended and raised the possibility of moves to Airlie Beach or the Gold Coast. There was a particular opportunity to work as a chef in the North he was pursuing. This did not eventuate as he did not have his own chef knives which were required by the potential employer. He was provided with a travel application document to complete regarding proposed travel overseas.
12. The final attendance on the parole officer was on 15 December when he came in without a scheduled appointment. He wanted to know if his parole supervision could be transferred to Cannonvale where he had made two rental enquiries. The parole office required one address only to be assessed for suitability; he did not respond to this request.
13. During the two months he was on parole before his death it was clear he was cooperating and actively seeking employment opportunities.
14. He was not required to provide a urine sample during this period as the officer did not observe any indicia suggesting he was using illicit drugs.
15. After his death police were able to access his text messages from his phone. Some of these messages provided context around the circumstances of his death which occurred in a motel room at Fortitude Valley in Brisbane on 18 December 2015.
16. On 1 December the deceased sent a text message to 'X' on a number of occasions. He was pleading for 'X' to respond, stating he wanted to go to Brisbane. He also made calls to this person but there was no evidence of a response.

17. Police accessed Queensland Rail records which show the deceased travelled by train to Brisbane on 5 December. He returned the same day. Whilst in Brisbane that day the deceased sent a text message to "X" which read;

'I'm in the valley come on answer X'

He then sent another text which said:

'Don't make me get from the street.'

18. That afternoon the deceased sent a text to 'Y' asking for a phone number for a person called 'Z'. He received that information.

19. A couple of hours later he returned by train to his home in regional Queensland. It is possible, but purely speculative that this lengthy return day trip was for the purpose of accessing drugs, but there is no further information about what occurred or who he might have met.

20. On 12 December the deceased's phone records show he phoned 'Z'. The call was only of 2 seconds duration. The next day on 13 December the deceased phoned 'Z' and the conversation lasted 20 minutes.

21. It was two days later on 15 December when the deceased attended the parole officer for the last time, enquiring how he might transfer his parole to Cannonvale in Airlie Beach. He asked his supervisor about cheap car hire options to make a day trip north to investigate his opportunities. His supervisor thought he was in good spirits and considered he was well supported by family members. She did not suspect he was using illicit drugs at this time although she knew people could conceal such behaviour.

22. On 16 December the deceased sent a text message to 'Z' indicating he wanted to come to Brisbane but wanted to speak with 'Z' first. There was a subsequent 4 second phone call.

Final trip to Brisbane

23. Just before midnight on 16 December the deceased called a taxi and boarded a train for Brisbane in the early hours of 17 December 2015. He rang 'X' and there was a conversation for just over a minute shortly after 9:00am, just before the train arrived in Brisbane. Queensland Rail records indicate he had a return ticket booked in less than two hours' time that same day. Subsequently that was changed.

24. After his death police were able to establish that the deceased was met at the train station or in a nearby street by 'Z' and a woman identified here as 'A'. She gave evidence at the inquest where she stated she was receiving a disability support pension as she suffered from physical and mental health difficulties. She was 33 years of age at the time. She had recently been released from the women's correctional centre where she was spoken to by the lead investigating police officer Detective Sergeant Gilfoyle on 11 May 2017, some eighteen months after the deceased's death.

25. The information she provided to police at that time was as follows-
26. She acknowledged she was at The City Palms Motel with the deceased on 17 December 2015. She said she was there for a little while with him and then she left and did not return. The next day she saw her friend 'Z' and he told her that the person had died. She confirmed she met the man for the first time through her friend 'Z', who was a mutual friend. She said the deceased told her he had just got out of jail and was returning home on the train that afternoon. She could not recall whether she met him at 'Z's' place or on the street, or at the train station. She could remember seeing 'Z' and the deceased was with him.
27. She said the deceased wanted to get a motel room. They left 'Z' and went to the City Palms Motel. She could not remember whose idea it was to go there, but she said she did not think he knew the area well. He paid for the accommodation.
28. She said at the motel they had some drinks, which she thinks he paid for. She acknowledged she had sex with the deceased and denied being paid. She denied taking any drugs. She told Detective Sergeant Gilfoyle she did not know whether the deceased took any drugs. The police officer emphasized that he simply wanted information about what happened to the deceased. He confirmed with her that he could not use any information in court (a criminal court).
29. She then told him that she thought the deceased had some heroin and overdosed on heroin. She said, she heard he got more heroin after she left. She said that was all she heard from 'Z'. She did not know where he obtained the drug and denied seeing any drug or the deceased using a drug.
30. She said he was happy and seemed fine, that he seemed alright. She acknowledged she had used heroin in the past and was aware of its effects. She said he 'wasn't smashed' and that he 'might have had a little bit'. She said he might have talked a little bit about drugs but she could not remember what he said.
31. When asked whether he explained why he was in Brisbane she said that the deceased said he got out of jail and was going back to his home that afternoon. She thought she spent 'two, three hours maybe' with the deceased.
32. She could not remember what time she checked in to the motel and it might have been dark when she left. She could not remember why she left but she had never intended to stay overnight. She thought she might have left a jacket at the room. She was shown photos of a bra, a hat and a black spotted top. She recognised these items as hers. She was shown a picture of a back- pack which she thought belonged to the deceased because he was travelling.
33. She was not sure but she thought she might have tried to go back to the motel later but was not sure about this as she had stayed at the address previously and visited another person. She said on this night she did not see or visit anyone other than the deceased.
34. She was also unsure but she thought after she left the deceased she went back to 'Z's' place and then probably was on the street for the rest of the night, which was what she usually did.

35. She was asked what made her come into the Police Beat and tell them about the deceased after his death. She said 'Z' had told her about the death and she was just shocked. She went to the police and told them that she had nothing to do with the death, that she just knew him. She thought 'Z' had suggested she should go and see the police.
36. She was unsure but she thought the deceased might have been at 'Z's' place when she was there before they went to the motel room. She was uncertain and said she did not really know. All she could clearly remember was the deceased and 'Z' walking down the road together. The deceased said 'do you want to go to the motel together' and she agreed to do so.

Evidence of 'A' at inquest

37. The woman known as 'A' who had been in company with the deceased on the afternoon before his death gave evidence at the inquest. She had been served and required to attend. She did so voluntarily. She did not appear to be comfortable giving evidence but this is not a criticism. She appeared to be doing the best she could to remember events from December 2015.
38. Overall her evidence at the inquest was consistent with the information she had provided to Detective Sergeant Gilfoyle when she was interviewed in May 2017.
39. There were some additional matters about which she was questioned. She said they went to the Palm City Motel where he paid for room 26 on the ground floor level.
40. He was given a security swipe card for access, but she was not given a card. She acknowledged that she had been at the motel before and was aware of the general layout of the various units. She said on 17 December she only entered and left the premises via the hotel reception entrance. She acknowledged she was aware it was possible to access the premises via the car park but this would require use of a secure card which had not been issued to her.
41. Not surprisingly when pressed for details she said she could not remember, including why she had left some items of clothing behind. She confirmed she left the room and premises the way she had entered, via the main entrance past reception. She denied leaving the premises via the carpark which would have required use of an access swipe card.
42. The only part of her evidence which sounded unreliable was when she was questioned about returning to the motel after leaving. It was possible she was thinking of another occasion when she had been at the motel with someone else. There was insufficient certainty to conclude she had returned and no other evidence or information to indicate she had returned to the premises that night.
43. Nor was she able to explain exactly how her visit ended and in what circumstances she left the room. She said she simply wanted to leave, and did so pretty quickly. She said she felt uncomfortable and had never intended staying the night.

44. She said it was the next day or the one after that she became aware of the death from 'Z'. Although she had described the deceased as a friend when she reported her contact with him to police, she confirmed she had only met him for the first time on 17 December 2015.

Discovery of deceased's body and police investigation

45. The deceased's body was discovered in room 26 of the Palm City Motel in Brunswick Street. The complex had approximately 40 self-contained rooms. Room 26 has an open living area with a queen size bed, small kitchen area and a doorway leading to an ensuite bathroom.
46. At about 10:50am on 18 December the facility cleaner knocked on the door of room 26 to see if he could go inside and clean the room. There was no response and he opened the door slightly using swipe card access. He saw a leg and called out 'are you alright?' There was no response and the cleaner looked into the room. He saw a person lying face down with dark fluid coming from his mouth. He tapped the person on one of his legs but there was no response. No-one else was in the room. He then closed the door and informed the facility manager who called 000.
47. Ambulance officers attended and assessed the person, confirming he was deceased. Police from Fortitude Valley station attended at about 11:30am. Constables Cleal and Niemiec attended. They spoke with the complex manager and were taken to room 26 and entered. An ambulance officer was in attendance with the deceased male person lying face down on the floor. His neck was lying against the pole of the fixed table in the unit and his left arm was underneath his body with his right leg bent at the knee and his right arm bent towards his right leg.
48. The television was on and the air conditioning was running. There was no indication of disruption in the room.
49. He was wearing shorts, socks and runners. There was a black Mambo bag on the table near the base of the bed. The police located a bent spoon on the fixed table near the deceased male.
50. The officers contacted the supervisor and waited for detectives to arrive. In the interim Constable Niemiec obtained information from the cleaner and the motel manager. The manager told him that when the deceased person checked in the day before he was with a girl who was gone by about 6:00pm that night. The manager said the girl was not on the premises the next morning. The manager stated he was at reception on the morning of 18 December when the male occupant from room 26 came and asked him about checkout time. This occurred at about 9:00am. The manager told him checkout was 11:00am and the man left reception. He told police officers there was nothing to indicate a problem with his health. He later checked the records and confirmed to the officer the name of the male person provided at the time of the room was booked.
51. Constable Niemiec spent about 30 minutes reviewing CCTV footage recorded from the reception area. The deceased person was identified returning back to the motel at 9:45am on the morning of 18 December 2015. The deceased was seen entering

the door that was nearest to the entrance to the motel, the path leads up to where he was staying in room 26.

52. Constable Niemiec had noted there was a fire exit near room 26 that was not covered by CCTV. It could be used to exit the premises only.
53. At 9:44am on CCTV the deceased was seen to knock on the door of room 12.
54. He was seen to walk apparently from the street into the driveway, look around then knock at room 12 twice. He looked around again and walked back to (his) room. The police officer identified the name of a female in the room number 12. No one from unit 12 was seen and the door did not open.
55. Constable Cleal also saw a portion of the CCTV footage. Specifically she saw the deceased person check into the unit at 10:06am on Thursday 17 December in the company of an unknown female. She saw the female leave the complex at approximately 3:46pm the same afternoon. At the inquest she clarified that the woman was not seen after 4:00pm on 17 December 2015. In Constable Cleal's notebook she recorded the CCTV footage was 14 minutes behind, meaning the actual time when the woman left the premises was 4:00pm, not 3:46pm.
56. The deceased was seen at about 7:56am on 18 December when he asked about checkout time.
57. Constable Cleal was informed later that the CCTV footage also showed the deceased at 9:45am on Friday, 18 December 2015.
58. She confirmed with the motel management they were to retain the CCTV footage and police would attend to collect it at a later time. No staff were available at the time who knew how to download the CCTV footage.
59. The deceased's identity was established initially from the contents of the wallet on the side table in room 26. This contained a driver's license. The image was confirmed by police with the records and the next of kin was subsequently informed. Other property located at the scene included a passport, paperwork, Lexar computer, clothing and a mobile phone.
60. A black backpack located on a side table in the room was searched. There was a capped syringe and an empty syringe packet in the backpack. As well there was a clip seal bag containing a minute amount of an unknown residue.
61. The deceased person was observed to have what appeared to be a fresh track mark in the crook of his left elbow.
62. Subsequently Constable Cleal re-attended the City Palms Motel to obtain the CCTV footage. She was informed by a staff member that it had been recorded over.
63. The lead investigator Detective Sergeant Gilfoyle attended the scene on 18 December 2015 and followed up with the investigation. Apart from matters already referred to he noted there was an exit at the Brunswick Street end of the hallway

outside room 26. This exit was not covered by CCTV footage. The exit is a fire exit which cannot be opened from the outside. Potentially, it could be left propped open.

64. Some rooms numbered 11, 12 and 14 are accessible from Brunswick Street by the complex driveway. The rest of the complex requires swipe card access through secured gates. The use of a swipe card is not required through the secure entrance point or from any of the fire exits.
65. Enquiries were made with other residents at the complex including the occupant of unit 28. That person had not heard anything overnight from unit 26.
66. The occupant from unit 29 recalled seeing the deceased a couple of times but had not spoken to him and had not seen him on the morning of 18 December.
67. Detective Sergeant Gilfoyle confirmed his understanding of the CCTV footage on a 18 December 2015 was as follows;
 - (i) The deceased attended the reception desk at about 8:00am. He was alone.
 - (ii) The deceased returned to the motel alone at 9:40am. He appeared to knock on the door of unit 12. He did not appear to speak to anyone at the unit and it did not appear that the door to the unit opened. (The probability is that the deceased left the premises by some means other than through the reception area between 8:00am and 9:40am when he was seen to return to the motel.
 - (iii) The deceased was seen to walk alone past reception at about 0945 in the direction of his room number 26.
68. The deceased's phone was examined. There were messages which suggested to the investigating detective that the deceased was attempting to obtain drugs.
69. Review of the phone messages led to enquiries with 'Y' who did not assist police with their enquiries. Subsequently Y was charged with offences not relating to the deceased.
70. The phone records also showed contact between the deceased and 'Z'. On 20 December 2015 Detective Gilfoyle had a conversation with 'Z' who confirmed he knew the deceased and met with him 2 or 3 days earlier. He said the deceased was asking him to find heroin or buy heroin for him. Subsequently 'Z' indicated the deceased said he had located a source.
71. 'Z' told police the deceased called him at 5:00am or 6:00am on the morning of 18 December but 'Z' was asleep. 'Z' said he did not see the deceased that morning. He indicated he could find the girl who stayed with the deceased and arrange for her to contact police.
72. Detective Sergeant Gilfoyle reached the conclusion the deceased was actively trying to seek and obtain drugs, particularly heroin. It appeared that he had self-administered the drug and died due to an overdose. There was nothing to suggest the deceased had intended to cause his own death.

Cause of death

73. Autopsy examination was conducted on 22 December 2015 by the forensic pathologist, Dr Storey.
74. The only sign of recent injury was a fresh puncture mark with surrounding bruising at the left antecubital fossa (elbow).
75. CT imaging did not show any skeletal fracture, intracranial pathology or other sign of injury or disease.
76. Toxicology testing showed methylamphetamine at a level of 0.17 mg/kg.
Amphetamine was recorded at 0.03 mg/kg.
Morphine was detected at a level of 0.53 mg/kg. Total morphine was measured at a level of 0.65 mg/kg.
Codeine was measured at a level of 0.1 mg/kg. Total codeine was measured at a level of 0.1 mg/kg.
Diazepam was detected at a level below 0.02 mg/kg.
6 mono acetyl morphine was measured at a level of 0.03 mg/kg.
No alcohol was detected.
77. The pathologist noted there were no signs of recent significant physical injury. There was a recent puncture wound to the front of the left elbow and this was associated with adjacent red/blue bruising.
78. The level of methylamphetamine was within the lower reaches of the published ranges associated with the fatality. Amphetamine identified in a small amount was likely the metabolite of methylamphetamine. The anti-anxiety drug diazepam was present at a non-toxic level. Morphine was present in the lower ranges of published ranges associated with fatality. A small amount of codeine was likely a metabolite of morphine.
79. Significantly, the identification of 6 mono acetyl morphine (6- MAM) confirmed when the morphine was taken it was in the form of heroin. Dr Storey considered all of the circumstances indicated the deceased had recently injected a substance. The presence of 6-MAM confirmed the very recent use of heroin as 6-MAM is only short lived in the blood stream. The ratio between free morphine and total morphine was consistent with death occurring very shortly after the injection of heroin.
80. The presence of potentially fatal levels of two illicit drugs and evidence of the very recent injection of one of these drugs led to the pathologist's conclusion the death was caused by mixed drug toxicity.
81. Dr Storey considered the heroin had been taken only shortly before death (up to a few hours).
82. He could not suggest any possible timing regarding the use of methylamphetamine.

83. Dr Storey noted ambulance officers referred to mild rigor mortis approximately one hour and 20 minutes after the deceased was last seen alive. The pathologist could not be certain of the reliability of the observation of rigor but he considered it to be possible after one hour and 20 minutes in December in Queensland.
84. The pathologist noted it was essentially unknown whether the deceased was opiate or amphetamine naïve or tolerant. There is a large variability in individual's response to exposure to methamphetamine.
85. Dr Storey explained that mixed drug top toxicity does not infer that the particular drugs were consumed at the same time. Rather, they have been detected and are present together in the blood of the deceased person. Where there is mixed drug toxicity, lower blood levels of drugs are required for toxic effects to be evident than if the drug was present on its own.

Conclusions

86. There were phone call records and internet activity on the deceased's phone and computer until 3:16am on 18 December.
87. Subsequently at 5:00am the deceased sent a text to 'Z' in which he stated he was 'scattered and needed a friend'. He said he was 'in hell and losing it'.
88. However he subsequently spoke with reception at about 8:00am before leaving the premises. There was no sign he was unwell and he returned at about 9:40am.
89. At about 10:00am (corrected time from CCTV footage of 9:44am) he was seen in the vicinity of unit 12 but no interaction with anyone was observed before he proceeded in the direction of his room number 26. He was found deceased in his secure room at 10:53am.
90. Although there is the possibility that someone could access the area if a fire door had been propped open, that area would otherwise require swipe key access to enter the area including room 26. The deceased was found alone in his room. The room was secure and there was no sign of injury or disruption to property. There was also no sign to suggest anything had been stolen given the presence of his wallet, phone, licence, passport and computer.
91. There were items of women's clothing which have been explained by the evidence from the woman who spent time with the deceased on the previous day.
92. There was also evidence of drug use in the room including a capped syringe and packaging and remnants substance in a clip seal package all in the deceased's bag.
93. There was a recent puncture wound and evidence from his phone records that he had been seeking heroin.
94. There was nothing in his personal circumstances, history or the room itself which would suggest he deliberately intended his own death. Rather, all of the circumstances indicate he inadvertently died due to overdose caused by mixed toxicity including heroin and methamphetamine.

95. There was no evidence that the woman with whom he had spent time on the previous day had been involved in any way to cause or contribute to his death.
96. All that can be concluded is that the deceased himself left the premises on the morning of 18 December and probably sourced illicit drugs between 8:00am and 9:40am.
97. He administered the drugs to himself and very shortly afterwards collapsed onto the floor, losing consciousness before death ensued.
98. It is noted the deceased had purchased a return ticket and had plans to transfer his parole arrangements to pursue opportunities for employment. Tragically he died before achieving these goals.

Findings

- (i) The identity of the deceased person is Mr D
- (ii) On 17 December 2015 Mr D travelled by train from regional Queensland to Brisbane. Originally he had purchased a return ticket and would have arrived back at his home on the same day which would have meant he was compliant with his parole conditions. After his death, police reviewed phone text records and obtained information from a man and a woman with whom he was in contact in Brisbane on 17 and 18 December 2015. The man "Z" introduced the deceased to the woman "A" and the deceased and the woman walked to the City Palms Motel where the deceased paid for a room for the night. The deceased and the woman had some drinks and spent time in the motel room and there were sexual relations between them before the woman left the premises at 4:00pm on 17 December 2015. The woman denied using drugs or seeing the deceased use any drugs in her company. She said however she thought he had used a little bit of heroin at some time.

The deceased's phone and computer were used overnight and indicated he was seeking a source to access drugs. He was seen at the reception of the motel and recorded on CCTV footage at 8:00am on morning of 17 December before leaving the premises and returning at about 10:00am. He was last seen alive walking in the direction of his room. He was in his room about an hour later by the cleaner. Ambulance and police officers attended and observed there was no disturbance to the room and the only apparent injury was a fresh puncture wound in the elbow. A capped syringe and clip seal back with minute traces of residue were found in his bag. Police investigated his death as apparently drug related and ultimately concluded this was an inadvertent overdose. There was no evidence to suggest he intended to cause his own death or that anyone else administered the drug other than the deceased.

- (iii) The deceased died on 18 December 2015.
- (iv) The deceased died in room 26 at the City Palms Motel, Brunswick Street Fortitude Valley in Queensland.
- (v) The deceased died due to mixed drug toxicity.

I close the inquest

Christine Clements
Brisbane Coroner
11 September 2017