IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

COR 2022 000536

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 63(2)

*Section 67 of the **Coroners Act 2008***

Findings of:	Coroner David Ryan
Deceased:	Robert Leonard Morris
Date of birth:	20 April 1945
Date of death:	27 January 2022
Cause of death:	1(a) Terminal pancreatic cancer
Place of death:	Port Phillip Prison, 451 Dohertys Road, Truganina, Victoria
Keywords:	Death in custody – Custodial management – Health care – Natural causes

INTRODUCTION

1. On 27 January 2022, Robert Leonard Morris was 76 years old when he died while serving a sentence of imprisonment at Port Philip Prison.

2. Mr Morris is survived by his partner, Xing Quan Zhu, with whom he commenced a relationship in early 2007. They remained in a relationship while Mr Morris was in custody. Throughout Covid-19 restrictions, Mr Zhu's visits to Port Philip Prison were limited, however they continued to speak regularly by phone and letters. Mr Zhu last visited Mr Morris on 8 or 9 January 2022.

3. Mr Morris' medical history included Type 2 diabetes, arthritis, hypertension, benign prostatic hyperplasia, dyslipidaemia, gastro-oesophageal reflux disease (**GORD**), and pancreatic cancer.

CUSTODIAL BACKGROUND

4. On 29 February 2016, Mr Morris was remanded into custody at the Melbourne Assessment Prison (**MAP**) on multiple charges of indecent assault on a male relating to historical child sex offences. On reception to MAP, Mr Morris disclosed a history of reflux and high cholesterol. His blood pressure was recorded as elevated, but this was attributed to stress associated with entering prison.

5. On 3 March 2016, he was sentenced as a serious sexual offender at the County Court of Victoria to six years' imprisonment with a non-parole period of four years.

6. On 9 March 2016, Mr Morris was transferred to Hopkins Correctional Centre (**Hopkins**). During his time at Hopkins, he underwent regular medical, nursing, allied health and dental reviews.

7. On 6 August 2016, having been reclassified as a minimum-security prisoner due to good behaviour, Mr Morris was transferred to Langi Kal Kal Prison (**Langi Kal Kal**). As new criminal proceedings had been commenced, Mr Morris' security rating returned to medium on 31 July 2018 and he was required to return to Hopkins.

8. During this further time at Hopkins, Mr Morris reported chest pain on two occasions. The first occasion on 5 August 2018 necessitated his admission to East Grampians Health Service for investigation. Mr Morris underwent an electrocardiogram (**ECG**) which did not reveal any

abnormalities and his pain resolved with analgesia. On the second occasion on 18 October 2018, he was assessed by a medical officer, who did not identify any cardiac abnormalities, and his pain resolved with glyceryl trinitrate (**GTN**) spray.

9. Other health concerns during his time at Hopkins included Mr Morris being occasionally unsteady on his feet, prompting a podiatrist referral for assessment, and monitoring of high blood glucose levels, for which he was prescribed Metformin and received education regarding diet and exercise, and referrals for diabetes education, optometry and further podiatry reviews.

10. On 27 August 2018, Mr Morris was convicted of further historical child sex offences, for which he was sentenced in the Magistrates Court of Victoria to an additional 18 months' imprisonment, with 12 months' to be served concurrently with his existing sentence. He was eligible for release on 26 June 2022.

11. On 21 December 2018, Mr Morris was again reclassified as a minimum-security prisoner and he returned to Langi Kal Kal. Health staff continued to monitor his diabetes and observed an increase in his daily blood glucose levels.

12. On 11 June 2019, Mr Morris' Chronic Health Care Plans were reviewed in relation to his age, diabetes management and cardiac condition.

13. On an occasion in July 2020, Mr Morris was transferred to the emergency department of Ballarat Hospital following further complaints of chest pain. His vital signs remained normal throughout his admission and diagnostic tests did not reveal any abnormalities. Mr Morris returned to Langi Kal Kal the following day.

14. During a routine medical review on 5 October 2020, Mr Morris reported recent weight loss, fatigue and constipation. He further disclosed recent episodes of vomiting with dull pain described as reflux on 7 October 2020, after which he underwent a computed tomography (**CT**) scan. The CT scan revealed a pancreatic mass with suspected metastatic disease.

15. On 9 October 2020, Mr Morris was admitted to St Vincent's Hospital and a pancreatic cancer mass was confirmed. Arrangements were made for his readmission in 28 days for surgery, subject to the results of a staging laparoscopic. Mr Morris also underwent further investigations at this time for his chest pain, including a stress ECG, however no abnormalities were detected.

16. On 19 October 2020, Mr Morris was discharged to Port Phillip Prison, where custodial health staff continued to monitor his general health needs and administer adequate pain relief.

17. On 4 November 2020, Mr Morris returned to Langi Kal Kal as a date had not yet been confirmed by St Vincent's Hospital for his planned surgery.

18. On 24 November 2020, Mr Morris underwent an endoscopy at St Vincent's Hospital, which confirmed a diagnosis of adenocarcinoma in the tail of the pancreas.

19. On 3 December 2020, following a multidisciplinary specialist team meeting, Mr Morris attended a telehealth consultation to discuss his treatment plan. Mr Morris was advised that the tumour was inoperable and not suitable for radiation therapy, and it was recommended that he commence weekly chemotherapy treatment.

20. Throughout this period, Mr Morris experienced digestion difficulties and nausea, after which he was downgraded to a soft diet and small meals and prescribed Ensure as a dietary supplement.

21. On 14 December 2020, Mr Morris commenced weekly chemotherapy at St Vincent's Hospital. On 21 December 2020, Mr Morris was transferred to the St John's inpatient unit at Port Philip Prison to facilitate ongoing monitoring by health staff.

22. On 22 January 2021, Mr Morris' wishes for a Do Not Resuscitate (**DNR**) were recorded in an Acute Resuscitation Plan.

23. In the time following his diagnosis, Mr Morris continued to experience significant weight loss and loss of appetite as a result of his chemotherapy treatment and was at an increased falls risk. He suffered falls on 1 September, 5 December and 28 December 2021, but was assessed by medical staff each time and did not sustain any injuries. Falls risk mitigation measures were introduced, including non-slip socks and a walking frame. Over the course of his chemotherapy treatment, Mr Morris also required blood transfusions due to low white blood cell count.

24. On 3 August 2021, Mr Morris reported feeling more unwell than usual with low back pain. By 21 October 2021, Mr Morris' pain and nausea was recorded as controlled and his weight had stabilised.

25. On 30 November 2021, staging scans revealed the development of liver lesions and increased pathology for tumour markers. Mr Morris had also experienced further weight loss.

26. Mr Morris was referred to the Palliative Care Unit and on 14 December 2021, he was advised by the consultant oncologist that he would cease active treatment and commence palliative care. Mr Morris subsequently refused to attend a palliative care telehealth appointment on 29 December 2021, however several measures were implemented for his comfort while his condition continued to decline. Health and custodial staff facilitated additional visits from Mr Zhu and ensured that Mr Morris was able to speak with his family.

27. On 12 January 2022, at the recommendation of a St Vincent's Hospital palliative care physician, Mr Morris was commenced on a daily subcutaneous infusion of morphine, maxolon and midazolam via a syringe driver.

THE CORONIAL INVESTIGATION

28. Mr Morris' death was reported to the Coroner as it fell within the definition of a reportable death in the *Coroners Act 2008* (**the Act**). Mr Morris' death was reportable as he was in the legal custody of the Secretary to the Department of Justice immediately before the time of his death.[1] Deaths of persons in custody, such as when serving a custodial sentence, are reportable to ensure independent scrutiny of the circumstances surrounding their deaths. If such deaths occur as a result of natural causes, a coronial investigation must take place, but the holding of an inquest is not mandatory.

29. The role of a coroner is to independently investigate reportable deaths to establish, if possible, identity, medical cause of death, and surrounding circumstances. Surrounding circumstances are limited to events which are sufficiently proximate and causally related to the death. The purpose of a coronial investigation is to establish the facts, not to cast blame or determine criminal or civil liability.

[1] Section 4(2)(c).

30. Under the Act, coroners also have the important functions of helping to prevent deaths and promoting public health and safety and the administration of justice through the making of comments or recommendations in appropriate cases about any matter connected to the death under investigation.

31. This finding draws on the totality of the coronial investigation into Mr Morris' death, including evidence contained in his medical records, a coronial brief prepared by the Coroner's Investigator, and a report arising from a review conducted by the Justice Assurance and Review Office (**JARO**). While I have reviewed all the material, I will only refer to that which is directly relevant to my findings or necessary for narrative clarity. In the coronial jurisdiction, facts must be established on the balance of probabilities.[2]

MATTERS IN RELATION TO WHICH A FINDING MUST, IF POSSIBLE, BE MADE

Circumstances in which the death occurred

32. At approximately 2.40pm on 27 January 2022, nursing staff entered Mr Morris' cell and found he was not breathing. A Code Black response was called and additional health staff attended. In accordance with his Advance Care Plan, resuscitation was not performed and Mr Morris was subsequently pronounced deceased at 2.43pm.

Identity of the deceased

33. On 27 January 2022, Robert Leonard Morris, born 20 April 1945, was visually identified by his treating doctor, Dr Jia Li.

34. Identity is not in dispute and requires no further investigation.

Medical cause of death

35. Forensic Pathologist Dr Yeliena Baber from the Victorian Institute of Forensic Medicine (**VIFM**) conducted an examination on 28 January 2022 and provided a written report of her findings dated 31 January 2022.

[2] Subject to the principles enunciated in *Briginshaw v Briginshaw* (1938) 60 CLR 336. The effect of this and similar authorities is that coroners should not make adverse findings against, or comments about, individuals unless the evidence provides a comfortable level of satisfaction as to those matters taking into account the consequences of such findings or comments.

36. Notwithstanding a post-mortem computed tomography (**CT**) scan was unable to be performed, Dr Baber did not observe any evidence to suggest Mr Morris' death was caused by anything other than his terminal disease.

37. Dr Baber provided an opinion that the medical cause of death was 1(a) Terminal pancreatic cancer. She concluded that Mr Morris' death could be attributed to natural causes.

38. I accept Dr Baber's opinion.

REVIEW OF CARE AND CUSTODIAL MANAGEMENT

39. Following Mr Morris' death, an independent review was conducted the Justice Assurance and Review Office (**JARO**) in collaboration with Justice Health with respect to his medical management and custodial management.

40. Mr Morris' custodial management was reviewed by reference to his individual prisoner file and Corrections Victoria policies. Further, his medical management as documented in his JCare medical records was assessed against the Justice Health Quality Framework 2014.

41. Justice Health did not identify any issues arising from Mr Morris' healthcare, noting that treatment of his existing medical conditions and subsequently his cancer were both reasonable and appropriate; his medical rating was consistent with his medical conditions requiring regular or ongoing treatment; and the response to his passing was consistent with his express wishes.

42. JARO similarly did not identify any issues with Mr Morris' custodial management and considered that his management met the standards prescribed by Corrections Victoria. In particular, it was noted that Mr Morris met regularly with a case manager, with whom he developed local plan goals to address his medical needs and prepare for parole or release. Due to his age and poor health, Mr Morris was not required to engage in employment during his incarceration and his participation in activities was limited. Before his health declined, however, Mr Morris completed the Better Lives Program tailored to adult male sexual offenders and was assessed as a Moderate-Low to High risk of re-offending.

43. Having reviewed the available evidence, I am satisfied that Mr Morris' medical and custodial management was reasonable and appropriate, and there are no opportunities for prevention or improvement to be addressed. I am therefore satisfied that no further investigation is required.

44. As noted above, Mr Morris' death was reportable by virtue of section 4(2)(c) of the Act because, immediately before his death, he was serving a custodial sentence and therefore in the legal custody of the Secretary to the Department of Justice. Section 52 of the Act requires an inquest to be held, except in circumstances where someone is deemed to have died from natural causes. In the circumstances, I am satisfied that Mr Morris died from natural causes and that no further investigation is required. Accordingly, I exercise my discretion under section 52(3A) of the Act not to hold an inquest into his death.

FINDINGS AND CONCLUSION

45. Pursuant to section 67(1) of the Act, I make the following findings:

    a) the identity of the deceased was Robert Leonard Morris, born 20 April 1945;

    b) the death occurred on 27 January 2022 at Port Phillip Prison 451 Dohertys Road, Truganina, Victoria, from terminal pancreatic cancer; and

    c) the death occurred in the circumstances described above.

I convey my sincere condolences to Mr Morris' family for their loss.

Pursuant to section 73(1B) of the Act, I order that this finding be published on the Coroners Court of Victoria website in accordance with the rules.

I direct that a copy of this finding be provided to the following:

Xing Quan Zhu, Senior Next of Kin

Justice Assurance and Review Office (JARO)

Justice Health

Senior Constable Andrew Prentice, Coroner's Investigator

Signature:

Coroner David Ryan

Date : 15 May 2024

NOTE: Under section 83 of the ***Coroners Act 2008*** ('the Act'), a person with sufficient interest in an investigation may appeal to the Trial Division of the Supreme Court against the findings of a coroner in respect of a death after an investigation. An appeal must be made within 6 months after the day on which the determination is made, unless the Supreme Court grants leave to appeal out of time under section 86 of the Act.