

**FINDING INTO DEATH WITHOUT INQUEST**

*Form 38 Rule 60(2)*

*Section 67 of the Coroners Act 2008*

I, JUDGE IAN L. GRAY, State Coroner having investigated the death of Zakaria TARTOUSSI without holding an inquest:

find that the identity of the deceased was Zakaria TARTOUSSI

born on 15 October 2002

and the death occurred on 27 November 2002

at Royal Children's Hospital, Parkville Victoria

**from:**

1 (A) RESPIRATORY INSUFFICIENCY; AND

1 (B) INTERSTITIAL FIBROSIS AND LOW GRADE PNEUMONITIS OF PROBABLE VIRAL AETIOLOGY

Pursuant to section 67(2) of the **Coroners Act 2008**, I make findings with respect to **the following circumstances:**

**Background**

1. Zakaria Tartoussi was the third of five children of Maria and Malek Tartoussi. Zakaria was born on 15 October 2002 and died on 27 November 2002, aged 43 days old. Mr and Mrs Tartoussi have two surviving children.
2. Mrs Tartoussi has TAFE qualifications in nannying and pathology for blood collectors, and was previously a Registered Division II Nurse. Her family medical history includes asthma and she has siblings who suffer from myotonic dystrophy.<sup>1</sup>

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<sup>1</sup> A chronic, slowly progressing, highly variable, inherited multi-systemic disease characterised by wasting of the muscles (muscular dystrophy), cataracts, heart conduction defects, endocrine changes, and myotonia.

3. Mr Tartoussi stated that his family history includes a sister who has lost three children to SIDS at the ages of six months, four months and two months, respectively, and who has a child with a form of genetic dystrophy.
4. Mrs Tartoussi became pregnant with Zakaria some months following the death of her four and a half year old daughter, Yasmine Tartoussi. Yasmine died on 2 August 2001, from multiple injuries from an unwitnessed fall from an eighth storey balcony in Lebanon, where the family had been visiting Mr Tartoussi's relatives. Yasmine is buried in Lebanon.
5. On 28 June 2003, Mr and Mrs Tartoussi's second child, Mohammed, died aged 3 years 11 months from unascertained causes, some seven months after Zakaria's death. Mohammed's death is described in the related finding without inquest.<sup>2</sup>

### **Zakaria**

6. Mrs Tartoussi smoked heavily during her pregnancy with Zakaria and had three episodes of premature labour, at 29, 32 and 34 weeks. Mrs Tartoussi delivered Zakaria naturally at the Royal Women's Hospital (RWH) at 36 weeks gestation.
7. Mrs Tartoussi and Zakaria were discharged from the RWH on 16 October 2002. Mrs Tartoussi stated that Zakaria was "a bit snuffly" on discharge.
8. On his second day at home, Mrs Tartoussi contacted the RWH and reported that Zakaria had an episode of becoming blue while feeding. The RWH arranged a domiciliary nurse visit. The nurse suggested that Zakaria had a congested nose and that the episode was the result of the breast pressing up against his nose and mouth during breast-feeding.
9. Mrs Tartoussi and Zakaria's care was then transferred to the local Maternal Child Health Nurse (MCHN), Marita Brown, who:
  - a. checked Zakaria at home on 17 and 24 October 2002;
  - b. checked Zakaria at the clinic on 31 October and 14 November 2002;
  - c. noted Zakaria to be feeding and developing well on each occasion;
  - d. noted that Zakaria was not sleeping well through the night and Mrs Tartoussi was tired; and

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<sup>2</sup> Coroners Court of Victoria case number COR 2003 2073.

- e. found Zakaria's care appropriate, with suitable sleeping arrangements.
10. Mrs Tartoussi stated that Zakaria turned blue on three occasions. In addition to the MCHN consultations, Mrs Tartoussi presented Zakaria to the Bell Street Family Medical Centre on the following occasions:
    - a. on 29 October 2002 (to arrange a circumcision referral for him); and
    - b. on 4 November 2002 (for a runny nose and cough).
  11. On 4 November 2002, Dr William noted that Zakaria's ear, nose, throat and chest were normal and diagnosed a viral upper respiratory tract infection.
  12. On 19 November 2002, Mrs Tartoussi informed the MCHN that Zakaria had been unwell and his lips were turning blue during feeding. The MCHN advised Mrs Tartoussi to take Zakaria to the Royal Children's Hospital (RCH). There is no record of Zakaria being presented to the RCH on this occasion. Mrs Tartoussi reported that she took Zakaria to see Dr Williams, who said Zakaria had a cold and advised Mrs Tartoussi to give him Panadol.
  13. On 22 November 2002, Mrs Tartoussi presented Zakaria to the Bell Street Family Medical Centre and was again provided a referral for circumcision.
  14. Mrs Tartoussi stated that on 24 November 2002, she again took Zakaria to see Dr William at the Bell Street Family Medical Centre where she stated that he was diagnosed as being 'snuffly' and was prescribed Panadol. Mrs Tartoussi stated that she took him back again on 26 November, but was again reassured. There are no records at the Bell Street Family Medical Centre or Medicare regarding these two presentations.
  15. On Wednesday, 27 November 2002, Mrs Tartoussi stated that she had breastfed Zakaria at about 5.00am and again at about 8.00am. Following the feeds, she changed him and placed him back in his cot to sleep until her older child, Mohammed, awoke. At around 10.00am, Mrs Tartoussi found Zakaria in his bed unresponsive and very blue. Mrs Tartoussi called 000 and commenced cardio-pulmonary resuscitation until the ambulance arrived.
  16. On the paramedics' examination of Zakaria at the Tartoussi residence, he was found to be non-responsive, not breathing and without a pulse. At 11.04am, following resuscitation attempts for approximately 45 minutes at the home and continuing efforts en route to the hospital, the Mobile Intensive Care Ambulance presented Zakaria to the

RCH, Parkville. Upon admission, Zakaria was found to be asystolic with fixed and dilated pupils and was pronounced dead at 11.13am.

17. On 29 November 2002, Dr Malcolm Dodd of the Victorian Institute of Forensic Medicine (VIFM) performed an autopsy on Zakaria. Dr Dodd identified the cause of death as *'respiratory insufficiency with interstitial fibrosis and low grade pneumonitis of probable viral aetiology'*.<sup>3</sup>

18. On 7 June 2005, Paediatric Forensic Physician Dr Terence Donald provided a report regarding the Tartoussi children. In relation to Zakaria, Dr Donald's report opines that:

*"it is reasonable to conclude that even though Zachariah (sic) was presented for medical attention five times in his short life there was likely to be present during this period a significant disease process, namely developing pneumonitis. No record was made of any health professional recognising the presence of any respiratory distress or examining Zachariah's (sic) chest. Chest examination is likely to have revealed abnormalities, particularly in the last week or so of Zachariah's (sic) life."*<sup>4</sup>

### **Investigations**

19. On 20 February 2003, Mrs Tartoussi wrote to the then State Coroner, requesting an investigation into Zakaria's medical treatment leading up to his death.

20. In August 2004, following Mohammed's death, being the only surviving Tartoussi child, the Homicide Squad took over investigation of Zakaria and Mohammed's deaths. Following the birth of Mr and Mrs Tartoussi's fourth child ("A") in October 2004, 16 months after Mohammed's unexplained death, the Department of Human Services Child Protection Unit also commenced an investigation into the Tartoussi family.

21. In October 2004, nine days after birth, A was admitted to the Emergency Department of the RCH following an apnoeic episode (cessation of breathing) at the family home. During A's hospital admission, two further apnoeic episodes were observed by hospital staff. Epilepsy was considered as an explanation for these episodes. Extensive investigations were undertaken during A's period of hospitalisation and, in 2005, it was confirmed that no metabolic disorder had been diagnosed.

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<sup>3</sup> Dr M. Dodd, Victorian Institute of Forensic Medicine *Document detail(ing) the nature and results of the medical investigation into the death of Zakaria Tartoussi*, Toxicology report, Microbiology culture results, Genetic Health Services metabolic test report.

<sup>4</sup> Dr Terence G. Donald, Paediatric Forensic Physician, *Tartoussi Paediatric Review*, 7 June 2005.

22. On release from the RCH, A was placed on a Children's Court order. A remained in foster care for 14 months before returning to Mr and Mrs Tartoussi's care on a Children's Court supervision order for 12 months. While in foster care, A had two episodes requiring hospital attendance. On one occasion, A experienced respiratory difficulties which triggered the apnoea monitor and A was admitted to the RCH with a diagnosis of bronchitis. On the other occasion, A's carer noticed that A was not breathing properly and called an ambulance. A was diagnosed with an acute allergic reaction.
23. Mrs Tartoussi gave birth to another child ("S") in November 2007. Within four months of birth, S was also admitted to the RCH following an apnoeic episode. The apnoeic episodes continued in hospital and no cause was determined. Paediatric Forensic Physician, Dr Terence Donald, conducted a review in relation to S. Dr Donald opined:
- a. that nothing in the materials *'raised a suspicion that any of S's episodes of collapse were induced by another person, in particular (the) mother'*; and
  - b. that *'it would have been appropriate for each (of S's) episode(s) of collapse to have been systematically discussed and investigated from a forensic perspective by forensic paediatricians, DHS Child Protection and the police'*.<sup>5</sup>
24. DHS Child Protection involvement with this family ceased in July 2010.
25. I find that, on 27 November 2002, Zakaria Tartoussi died from respiratory insufficiency and interstitial fibrosis and low grade pneumonitis of possible viral aetiology.

## COMMENTS

Pursuant to section 67(3) of the **Coroners Act 2008**, I make the following comments connected with the death:

### **Multiple medical presentations**

26. During their lifetimes, Mrs Tartoussi presented all five of her children for medical attention numerous times. The deceased Tartoussi children were presented as follows:

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<sup>5</sup> Dr Terence Donald Paediatric Forensic Physician, *Report in relation to 'S'*, dated 16 July 2012.

- a. Yasmine: During her nearly four and a half years, Yasmine had 179 medical presentations with 41 health professionals in 24 locations, including three hospitalisations for minor respiratory problems.
  - b. Mohammed: During Mohammed's nearly four years, he was presented to 179 medical consultations with 36 medical professionals at 16 locations, including 11 admissions to the RCH generally for vomiting, diarrhoea and asthma. Mohammed's presentations increased markedly following Yasmine and then Zakaria's deaths. On the day he died, Mrs Tartoussi presented Mohammed to the Bell Street Family Medical Centre stating that he had complained of chest pains. He was diagnosed as having very mild signs of an upper respiratory tract infection, but no signs of severe asthma.
  - c. Zakaria: Zakaria was presented to five medical consultations during his six weeks of life. Complaints included a runny nose, cough, being 'snuffly' and becoming blue while feeding.
27. Unfortunately, in Zakaria's case, Mrs Tartoussi's multiple medical presentations regarding his apparent illness and congested nose appear to have been missed opportunities to identify the respiratory infection that claimed his life. Indeed, Mrs Tartoussi's concerns appear to have been warranted.
28. The two surviving Tartoussi children have also had numerous medical presentations, including for episodes of turning blue in the lips, face and extremities.
29. Mrs Tartoussi, herself, averaged one attendance at a doctor every fortnight over a 14-year period, for a variety of symptoms including chest pains, asthma, upper respiratory infections, pregnancy and headaches. Mrs Tartoussi stated that she would often see the doctor to seek reassurance that there was no more serious problem. Mrs Tartoussi described herself as an anxious mother who was overprotective of her children. Mrs Tartoussi stated that her own mother was also anxious and would often take her and her siblings to the doctor. In October 2010, Mrs Tartoussi was diagnosed with epilepsy, which is now controlled with medication.
30. Mrs Tartoussi acknowledged that her frequency of attending doctors increased following Yasmine and Zakaria's deaths, but denied ever fabricating any symptoms in Mohammed or Yasmine to get medical attention. Dr Donald surmised that although unable to find evidence that Mrs Tartoussi induced any symptoms or illnesses in her three deceased

children, he was “*convinced that she did exaggerate or over interpret their symptoms*”, behaviour which he found “*is not necessarily harmful but nonetheless it is inappropriate and potentially compromises normal growth and development in children.*”

31. In November 2001, following a number of presentations of Mohammed to the RCH with no abnormalities detected, Mrs Tartoussi was referred to a consultant paediatrician, Dr Robert Sloane, with a query regarding Factitious Disorder by Proxy (formerly called ‘Munchausen by Proxy’). Dr Sloane indicated that in his observations of Mrs Tartoussi and Mohammed, he felt there was no abnormality in the maternal-child interaction.

### **Medicare reporting system and multiple presentations**

32. As part of the police investigation, the then State Coroner requested that police also investigate:

- a. the current system of reporting medical consultations in Victoria; and
- b. whether any safeguards are possible to prevent multiple medical presentations of a child from going undetected in the future.

33. The police investigation into the Tartoussi sibling deaths identified that a Medicare system enabling recognition of significant numbers of presentations to medical practitioners may have provided an opportunity for the health professionals to investigate Mrs Tartoussi’s over-presenting of her children. Such a system may have alerted medical professionals that there was a problem within the family that required further testing, including genetic, metabolic or otherwise.

34. Apart from identifying a need for further investigation or family support, a program that identifies multiple medical presentations may cause a medical practitioner to form a belief that a child is in need of protection. Victorian medical practitioners are now obliged to report any suspicious activity which creates in them a belief of reasonable grounds that a child is in need of protection to the Department of Human Services.<sup>6</sup>

35. The basic framework and infrastructure is already in place to allow a similar program to be created to enable the identification of persons who present on multiple occasions at

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<sup>6</sup> *Children, Youth and Families Act 2005* (Vic), s182(1)(a)-(e), s184 and s162(c) and (d).

general practitioners and various health professionals. However, two issues would constrain Medicare's ability to create such a program, being:

- a. the inability of the system to capture data from within public hospital facilities, as they do not technically bill against Medicare (because they are funded by the State governments); and
- b. legislative amendment would be required relating to privacy considerations and information dissemination beyond the primary purpose for which it was obtained.<sup>7</sup>

36. The first constraint could be overcome by hospitals scanning or storing patients' Medicare details and registering hospital visits with Medicare. This may require further consideration of changes to the centralised computer/recording programs and implementation costs would surely follow.

37. The second constraint comes under the public and private medical sectors' regulatory instruments. The Health Privacy Principles<sup>8</sup> within the *Health Records Act 2001* (Vic) regulate use or disclosure of personal and health information for purposes other than the primary purpose for which it was collected. However, several specific categories allow for dissemination of medical information in limited situations and a new category could be included to cover cases of multiple presentations of children within a limited time period. Alternatively, the system need not identify details of treatments or identifying medical information other than frequency of attendances.

38. If health professionals could easily access the number and frequency of previous presentations of a child, they could make reasonable and appropriate inquiries to inform themselves of the child's circumstances. This could potentially benefit the welfare of children with an undiagnosed problem within the family requiring further testing, or children at risk.

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<sup>7</sup> *Health Records Act 2001* (Vic) (Health Privacy Principles) and *Health Services Act* (1988) (confidentiality of a patient's personal information).

<sup>8</sup> *Health Records Act 2001* (Vic) schedule 1, Health and Privacy Principle 2.



## RECOMMENDATIONS

Pursuant to section 72(2) of the **Coroners Act 2008**, I make the following recommendations connected with the death:

1. if it has not already occurred, that the Tartoussi family consider consulting specialist genetic services for diagnostic, family health, and/or disease prevention advice; and
2. that the Minister for Health consider improvements in the way data regarding presentation for medical care can be accessed/shared by medical professionals to assist with patient evaluation and care, and that this consideration takes into account the Comments at paragraphs 32-38 above.


I convey my sincere condolences to Mr and Mrs Tartoussi and their families on the tragic losses of Zakaria and their other young children, Yasmine and Mohammed.

Pursuant to rule 64(3) of the Coroners Court Rules 2009, I order that this finding be published on the internet.

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

**Mrs Maria Tartoussi, Senior next of kin**  
**D/L/S/C Leigh Smyth, Victoria Police Investigating Member**  
**Ms Kirsty McIntyre, Department of Human Services**  
**Dr Terrance Donald, Paediatric Forensic Physician**  
**The Hon. David Davis, MP, Victorian Minister for Health**

Signature:



JUDGE IAN L. GRAY  
STATE CORONER

Date:

25/6/2014

