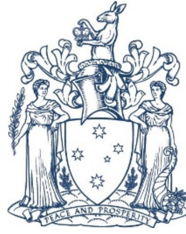

| IN THE CORONERS COURT<br>OF VICTORIA<br>AT MELBOURNE | Court Reference: COR 2019 1571 |
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**FINDING INTO DEATH WITHOUT INQUEST**

*Form 38 Rule 63(2)*
*Section 67 of the Coroners Act 2008*

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| Findings of: | Simon McGregor, Coroner |
| Deceased: | **Richard Mark Ray** |
| Date of birth: | 9 July 1969 |
| Date of death: | 29 March 2019 |
| Cause of death: | Complications of *Influenza A* infection |
| Place of death: | St Vincent's Hospital Melbourne<br>41 Victoria Parade, Fitzroy, Victoria |

## INTRODUCTION

1. Richard Mark Ray was a 49-year-old man who was a prisoner at the Melbourne Assessment Prison at the time of his death.

2. Mr Ray became ill while in custody around 18 March 2019. His illness worsened over the following days and he was taken to hospital on 22 March 2019. His condition continued to deteriorate and he died on hospital on 29 March 2019.

## THE PURPOSE OF A CORONIAL INVESTIGATION

3. Mr Ray's death was reported to the Coroner. As he was in the custody of Corrections Victoria at the time of his death, he was a 'person placed in custody or care' for the purposes of the *Coroners Act 2008* and so his death fell within the definition of a reportable death.

4. 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.

5. 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.

6. The Coroner's Investigator, Senior Constable Daniel Noy, prepared a coronial brief of evidence in this matter. The brief includes statements from witnesses, including the forensic pathologist who examined Mr Ray, a treating clinician and the investigating officer.

7. I have also received materials from the Justice Assurance and Review Office and Justice Health.

8. After considering all the material obtained during the coronial investigation, I determined that I had sufficient information to complete my task as coroner and that further investigation was not required. Whilst I have reviewed all the material, I will only refer to that which is directly relevant to my findings or necessary for narrative clarity.

9. I have based this finding on the evidence contained in the coronial brief. In the coronial jurisdiction facts must be established on the balance of probabilities.[1]

10. In considering the issues associated with this finding, I have been mindful of Mr Ray's basic human rights to dignity and wellbeing, as espoused in the *Charter of Human Rights and Responsibilities Act 2006*, in particular sections 8, 9 and 10.

## CIRCUMSTANCES IN WHICH THE DEATH OCCURRED

11. Mr Ray was received into custody at the Melbourne Assessment Prison (**MAP**) on 13 March 2019. He was medically receipted at MAP by Dr Marvin Sanciangco. At this time he appeared physically well and did not report any acute health problems. Dr Sanciango noted that his medical history included Hepatitis C.[2]

12. On 18 March 2019 Mr Ray was reviewed by a registered nurse at MAP. He complained of '*body aches, feeling hot and having a runny nose*' and had an elevated temperature of 38.5 degrees.[3]

13. The nurse recommended that he take paracetamol and ibuprofen to treat the symptoms of a viral illness.[4]

14. At around 7.00am the next day Mr Ray was reviewed again by a registered nurse. He was still feeling unwell and had a temperature of 38 degrees. He was again given paracetamol and ibuprofen for his symptoms. A later review found that he was feeling better, but still had a sore throat and body pains. A rapid viral swab of nasal secretions was requested and he was to remain isolated in his cell from the general prison population.[5]

15. He was reviewed again by a registered nurse on 22 March. He stated that he felt well but the nurse noted that his temperature was 39.5 degrees. The nurse, in discussion with medical officer Dr Daniel Clinton, decided to continue isolating him from other prisoners and to treat him with medication for his pain and fever symptoms.[6]

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[1] This is 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.

[2] Statement of Dr Foti Blaher dated 8 October 2019, Coronial Brief.

[3] Statement of Dr Foti Blaher dated 8 October 2019, Coronial Brief.

[4] Statement of Dr Foti Blaher dated 8 October 2019, Coronial Brief.

[5] Statement of Dr Foti Blaher dated 8 October 2019, Coronial Brief.

[6] Statement of Dr Foti Blaher dated 8 October 2019, Coronial Brief.

16. Dr Clinton and a nurse reviewed Mr Ray at around 12.00pm. Mr Ray's symptoms still indicated a viral illness and Dr Clinton recommended continuing to treat his symptoms.[7]

17. Mr Ray later informed officer that he had been vomiting and he was attended by a nurse at 4.00pm. She noted that he was coughing and dry retching and measured his temperature at 37.7 degrees, his respiratory rate at 16 breaths per minute, his pulse at 81 bpm, his blood pressure at 141/87 and his oxygen saturation at 96%. No change was recommended in his treatment.[8]

18. At 7.00pm he was reviewed again. He had no fever but appeared weak, and was not coughing.[9]

19. At 10.55pm Mr Ray was struggling to breathe, felt unwell and was reportedly '*coughing up blood*'. Emergency services were called and Ambulance arrived at 9.25pm to transfer him to hospital.[10]

**St Vincent's Hospital**

20. Mr Ray was brought to the Emergency Department (**ED**) at St Vincent's Hospital Melbourne. While still in the ED, he developed respiratory failure and required intubation and ventilation.[11]

21. He was admitted to the Department of Critical Care Medicine (**DCCM**) at 1.35am on 23 March 2019. He received anti-viral as well as broad spectrum antimicrobials, but his condition deteriorated and he required veno-arterial extracorporeal membrane oxygenation (**ECMO**).[12]

22. Mr Ray remained in the DCCM for the next six days, but he continued to suffer progressive organ failure despite a high level of organ support with ECMO, renal replacement therapy and vasoactive therapy.[13]

23. Despite the efforts of DCCM physicians, Mr Ray did not recover and life support was ceased following family discussions on 28 March. He passed away in hospital at 12.52am on 29 March 2019.[14]

[7] Statement of Dr Foti Blaher dated 8 October 2019, Coronial Brief.
[8] Statement of Dr Foti Blaher dated 8 October 2019, Coronial Brief.
[9] Statement of Dr Foti Blaher dated 8 October 2019, Coronial Brief.
[10] Statement of Dr Foti Blaher dated 8 October 2019, Coronial Brief.
[11] Statement of Dr Manisa Ghani dated 17 September 2019, Coronial Brief.
[12] Statement of Dr Manisa Ghani dated 17 September 2019, Coronial Brief.
[13] Statement of Dr Manisa Ghani dated 17 September 2019, Coronial Brief.

## IDENTITY AND CAUSE OF DEATH

24. On 29 March 2019, Mr Ray's brother visually identified his body. Identity is not in dispute and requires no further investigation.

25. On that day, Dr Melanie Archer, a Forensic Pathologist practising at the Victorian Institute of Forensic Medicine, conducted an external examination of Mr Ray's body and reviewed a post mortem computed tomography (CT) scan, medical records from St Vincent's Hospital and the Police Report of Death for the Coroner.

26. Dr Archer provided a written report, dated 6 April 2019,[15] in which she formulated the cause of death as '*I(a) Complications of Influenza A infection'*. She stated that, on the basis of the information available to her at the time, she was of the opinion that the death was due to natural causes.

27. I accept Dr Archer's opinion as to cause of death.

28. As part of her examination, Dr Archer noted that the CT scan showed evidence of pulmonary emphysema in Mr Ray's lungs. This is a risk factor for increased severity of disease with an *Influenza A* infection.

## REVIEW OF CARE

29. As Mr Ray died while in the custody of Corrections Victoria, the Justice Assurance and Review Office (**JARO**) reviewed the circumstances of his death to determine if the custodial management of Corrections Victoria met appropriate standards. Additionally, Justice Health, which has responsibility for delivering health services to prisoners, conducted a review of the health care provided to Mr Ray.

30. After considering the circumstances, JARO found that Mr Ray's custodial management by Corrections Victoria met required standards insofar as it related to the circumstances leading up to his death by natural disease.[16]

31. The JARO review did note that there was an error in entering some of Mr Ray's health information into the Prisoner Information Management System. However, this information

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[14] Statement of Dr Manisa Ghani dated 17 September 2019, Coronial Brief.
[15] An amended version of this report was provided on 16 April 2019, as the original version had written Mr Ray's name incorrectly.
[16] Letter from the Justice Assurance and Review Office to the Coroners Court of Victoria (undated).

was related to intellectual disability and did not relate to his physical health.[17] I do not find that this error was related to his medical care or eventual death.

32. The Justice Health review found nothing to suggest that the health care provided to Mr Ray was not in accordance with the Justice Health Quality Framework 2014.[18]

33. I accept the findings of JARO and Justice Health in their reviews of Mr Ray's care.

**FINDINGS AND CONCLUSION**

34. I express my sincere condolences to Mr Ray's family for their loss.

35. Having investigated the death, without holding an inquest, I make the following findings pursuant to section 67(1) of the *Coroners Act 2008*:

    (a) The identity of the deceased was Richard Mark Ray, born 9 July 1969;

    (b) The death occurred on 29 March 2019 at St Vincent's Hospital Melbourne, 41 Victoria Parade, Fitzroy, from complications of an *Influenza A* infection; and

    (c) The death occurred in the circumstances described above.

36. Pursuant to section 73(1B) of the *Coroners Act 2008*, I direct that a copy of this finding be published on the Internet.

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

    (a) Mr Richard Ray, senior next of kin;

    (b) Mrs Carol Pearl, senior next of kin;

    (c) Ms Donna Filippich, St Vincent's Hospital Melbourne;

[17] Letter from the Justice Assurance and Review Office to the Coroners Court of Victoria (undated).
[18] Justice Health Death in Custody Report (CRN 79153) signed by Jan Noblett (undated).

(d) Correct Care Australasia; and

(e) Senior Constable Daniel Noy, Coroner's Investigator.

Signature:

**SIMON McGREGOR**

**CORONER**

Date: 12 May 2020