

IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

COR 2023 005082

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 63(2)

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

Findings of:	AUDREY JAMIESON, Coroner
Deceased:	RBJ ¹
Date of birth:	May 1997 ²
Date of death:	11 September 2023
Cause of death:	1a: Suffocation
Place of death:	Elsternwick, Victoria 3185

¹ The deceased and others identified in this finding have been given pseudonyms for the purposes of publication.

² RBJ's date of birth is known to the Court.

INTRODUCTION

1. On 11 September 2023, RBJ was 26 years old when he was found deceased at his home. At the time of his death, he lived in Elsternwick in an apartment he shared with a friend.
2. RBJ is remembered as a beautiful, caring and loving young man who was the light in his family's lives. He was jovial, eccentric and fun, but also headstrong and firm in his beliefs.

Background

3. RBJ was a smart, happy and friendly boy who excelled in primary school. He sadly experienced family violence at the hands of his mother's partner, until he moved in with his maternal grandmother when he was around 14.
4. From the age of nine, RBJ worked casually as an actor, which he continued into adulthood. He worked on advertisements, television series and films.
5. RBJ's mother noticed that he began rebelling in his early teens, which coincided with getting a laptop for school use. He would stay up all night speaking to his friends and was then too tired to attend school, which would cause conflict between them.
6. RBJ became "*angry and disconnected*", which his mother attributed to being exposed to consistent violence from her partner. He began smoking cannabis at around the age of 16 and was caught at school and expelled.
7. RBJ planned to join the air force as a pilot rather than complete his VCE. On the day he turned 18 he attended the Australian Defence Force Academy testing centre, where he passed the academic testing but was identified to be slightly colour blind, disqualifying him from being able to work as a pilot. RBJ was "*devastated beyond words*" and became extremely depressed, lacking direction and purpose.
8. RBJ began drinking and using drugs and over the following years "*tried all the drugs he could*", including methylamphetamine, cocaine and MDMA. He had a few relationships over this time, but each was quite toxic and ended in separation.
9. RBJ loved computers and was great at building and programming them. He enjoyed gaming and played every night with friends, which his mother believed "*kept him going through some of his worst times*".

10. RBJ began working as a dealer at Crown Casino in around August 2022. He loved the job as it combined his social nature and his love of maths, and the income allowed him to move to Melbourne. His friends noted that this period was *“the happiest [they] had seen him in a long time, life was finally starting to look up.”*
11. RBJ told his mother that he had stopped taking most drugs, as he was subject to drug testing by Crown Casino, but he was using nitrous oxide as it was undetectable. He assured her it was safe as he had researched it, and he was taking extra vitamins to counteract its Vitamin B depleting properties. His mother noticed the nitrous oxide was particularly affecting him, and on occasions he *“could hardly string a sentence together”*.
12. RBJ moved in with his colleague and friend CD in August 2023 after a period of couch surfing and sleeping in his car.
13. In the two weeks prior to his death, RBJ had been regularly using ‘nangs’³. CD estimated that he was using around 15-20 every second day. Another friend, who played online games with RBJ, noted he would use nitrous oxide such that he would *“make himself incoherent”*.

THE CORONIAL INVESTIGATION

14. RBJ’s death was reported to the coroner as it fell within the definition of a reportable death in the *Coroners Act 2008 (the Act)*. Reportable deaths include deaths that are unexpected, unnatural or violent or result from accident or injury.
15. 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.
16. 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.
17. Victoria Police assigned Sergeant Robyn Skinner to be the Coronal Investigator for the investigation of RBJ’s death. The Coronal Investigator conducted inquiries on my behalf,

³ ‘Nangs’ is a slang term that refers to small cannisters of nitrous oxide.

including taking statements from witnesses – such as family, the forensic pathologist, treating clinicians and investigating officers – and submitted a coronial brief of evidence.

18. This finding draws on the totality of the coronial investigation into the death of RBJ including evidence contained in the coronial brief. 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. In the coronial jurisdiction, facts must be established on the balance of probabilities.⁴

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

Circumstances in which the death occurred

19. In the days before his death, RBJ told a friend about a ‘massive’ canister of nitrous oxide he was planning on purchasing. The friend warned him against this but noted that RBJ had “*a go hard or go home attitude so when he wanted to do something it was hard to convince him not to.*”
20. On 9 September 2023, RBJ placed an order on the website ‘NangWizard’, for 300 cream chargers (nangs), and a pressure regulator and adaptor and hose. The order was delivered the same day, and RBJ received a 640-gram tank of nitrous oxide for free.
21. RBJ and CD played games online until around 1am on 11 September 2023. After CD went to bed, he heard RBJ using nangs in his bedroom.
22. CD woke at around 11am that morning and believed RBJ had gone to work as he had a shift starting at 12pm.
23. At 8:45pm, CD noticed that RBJ’s bedroom light was on and opened the door to turn it off. He observed RBJ laying on his bed wearing a full-face gas mask. He was cold to the touch. CD immediately called Triple Zero, and RBJ was sadly declared deceased by attending paramedics at 9:07pm.
24. The gas mask RBJ was wearing was connected via a rubber bladder to a cream whipper dispenser. He had an open box of SupremeWhip brand cream chargers next to him.
25. Attending police noted numerous used nangs on the floor of the bedroom, as well as one larger

⁴ 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.

SupremeMax brand 640g nitrous oxide tank with a regulator and tube attached to it. Several other masks and hoses were found in drawers in the room. There was also a box containing several packages of 50 SupremeWhip cream chargers, some of which were unopened.

Identity of the deceased

26. On 11 September 2023, RBJ, born May 1997, was visually identified by his friend and colleague, CD, who completed a Statement of Identification.
27. Identity is not in dispute and requires no further investigation.

Medical cause of death

28. Forensic Pathologist Dr Hans De Boer from the Victorian Institute of Forensic Medicine (VIFM) conducted an external examination on 13 September 2023. Dr De Boer considered materials including the Victoria Police Report of Death (Form 83), post mortem computed tomography (CT) scan and scene photos and provided a written report of his findings dated 27 November 2023.
29. The post-mortem CT scan showed evidence of a swollen brain (no intracranial haemorrhage), no substantial natural disease and no skeletal injury.
30. The findings at external examination of the body were consistent with the history. There was no evidence of substantial injury.
31. Toxicological analysis of post-mortem samples identified the presence of cannabis metabolites delta-9-tetrahydrocannabinol and 11-nor-delta-9-carboxy-tetrahydrocannabinol.
32. Dr de Boer noted that nitrous oxide is quickly dispelled from the blood stream after inhalation and cannot be identified with standard post-mortem toxicology techniques.
33. Dr De Boer provided an opinion that the medical cause of death was 1(a) SUFFOCATION. He commented that suffocation is a broad term encompassing different causes of oxygen deprivation, such as vitiated atmosphere and smothering. Applied to RBJ's case, it encompasses the potential effects of a vitiated atmosphere due to the presence of nitrous oxide, and the potential effect of a lack of oxygen due to the presence of a closed-off full face gas mask.

NITROUS OXIDE

34. Nitrous oxide is an odourless, colourless gas that has several common uses including as an aerosol propellant for certain foods, such as whipped cream, and as a mild anaesthetic and anxiolytic in surgical and dental settings.
35. It is also commonly used as a recreational inhalant drug. When inhaled, nitrous oxide is rapidly absorbed by the body and produces a rush of euphoria, heightened consciousness and disassociation that includes both anaesthetic and sedative components. These effects last for about a minute.⁵

Prevalence of use

36. There is limited information on the prevalence of recreational nitrous oxide use in the Australian population.
37. The National Drug and Alcohol Research Centre oversees the Ecstasy and Related Drugs Reporting System work program, which involves annual administration of a questionnaire to a sample of people who regularly use MDMA and/or other illicit stimulants, asking them about what drugs they have used and how often over the previous six months. Data from the 2023 survey shows that the proportion of people who reported using nitrous oxide during the previous six months was 40%. This was a little lower than in recent previous years (the peak year was 2020 with 54% of the cohort reporting nitrous oxide use), but higher than what was found historically – between 2003 and 2012 the proportion was generally around 20-25%.⁶
38. The Australian Institute of Health and Welfare National Drug Household Survey is conducted every three years, asking a representative sample of Australians about their drug and alcohol use. It does not ask specifically about use of nitrous oxide, but it monitors inhalant use more generally. The 2022-23 survey found that 1.4% of the survey population had reported use of inhalants, which was lower than the proportion reported in the 2019 survey (1.7%) but up on previous years (for example only 0.4% of people reported using inhalants in 2001, and 1.0% in 2016).⁷

⁵ Allan J, et al, “A Systematic Review of Recreational Nitrous Oxide Use: Implications for Policy, Service Delivery and Individuals”, *International Journal of Environmental Research and Public Health*, 19(18), September 2022, 11567.

⁶ Sutherland R et al, *Australian Drug Trends 2023: Key Findings from the National Ecstasy and Related Drugs Reporting System (EDRS) Interviews*, Sydney: National Drug and Alcohol Research Centre, 2023, p.100.

⁷ Australian Institute of Health and Welfare, *National Drug Strategy Household Survey 2019*, Canberra: AIHW, 2020, p.42; Australian Institute of Health and Welfare, *National Drug Strategy Household Survey 2022–2023*, Canberra: AIHW, 2024, p.18.

Risks of use

39. Nitrous oxide is generally considered to be a comparatively safe recreational drug because it is not inherently toxic in acute use and, although there is some evidence it has a positive reinforcing effect in users, it does not appear to be as addictive as most substances considered to be ‘drugs of addiction’.⁸ However, recreational nitrous oxide use is not without risk.
40. The main immediate risk associated with recreational nitrous oxide use is asphyxia through displacing oxygen from the lungs. This risk is contingent on how the drug is concentrated and inhaled. In particular, using masks and hosing to inhale the nitrous oxide (as in RBJ’s case) presents greater risks than discharging the drug into a balloon for inhalation:

*The volume of nitrous oxide offered by a balloon is far lower than an anaesthetic dose, and the user is unlikely to lose consciousness; if they do, the balloon will simply fall from the mouth, and they will begin breathing atmospheric air and recover. With a tube or mask, however, far larger doses can be inhaled, and users will, if they continue to inhale, gradually drift into unconsciousness. If the tube or mask is not removed at this point, unconsciousness will be succeeded by oxygen starvation and death.*⁹

41. The other main immediate risk is environmental: inhaling nitrous oxide can cause disorientation, lack of coordination, and in some cases hallucinations, leaving the user at risk from accidental injury if there are environmental hazards the user cannot navigate (for example water, motor vehicles, ledges and high places).
42. Chronic use of nitrous oxide also carries risk: it causes vitamin B12 deficiency by rendering vitamin B12 in the body inactive and this over time can lead to nerve damage, spinal cord injury and resultant symptoms such as weakness and loss of feeling. Chronic use can also lead to harms associated with self-neglect, such as malnutrition.¹⁰

⁸ Gillman MA, “Nitrous Oxide, an Opioid Addictive Agent: A Review of the Evidence”, *American Journal of Medicine*, 81(1), July 1986, pp.100-101; Gillman M, “Nitrous Oxide Abuse in Perspective”, *Clinical Neuropharmacology*, 15(4), 1992, p.304.

⁹ M Jay, “Nitrous oxide: recreational use, regulation and harm reduction”, *Drugs and Alcohol Today*, 8(3), September 2008, pp.22-23. For a published case study see also Potocka-Banas B, et al, “Death caused by addictive inhalation of nitrous oxide”, *Human and Experimental Toxicology*, vol 30(11), 2011, pp.1875-1877.

¹⁰ Doran M, et al, “Toxicity after intermittent inhalation of nitrous oxide for analgesia”, *British Medical Journal*, 328, 5 June 2004, p.1364; Weimann J, “Toxicity of nitrous oxide”, *Best Practice and Research in Clinical Anaesthesiology*, 17(1), pp.57-58; Gable R, “Comparison of acute lethal toxicity of commonly abused psychoactive substances”, *Addiction*, 99(6), 2004, p.692; Evans E and Evans M, “Nangs, balloons and crackers: Recreational nitrous oxide neurotoxicity”, *Australian Journal of General Practice*, 50(11), 2021, pp.834-838.

Access to nitrous oxide in Victoria

43. Nitrous oxide for anything other than therapeutic use (e.g. for food preparation) is classified as a Schedule 6 poison in the Commonwealth's *Standard for the Uniform Scheduling of Medicines and Poisons* (**Poisons Standard**):

Substances with a moderate potential for causing harm, the extent of which can be reduced through the use of distinctive packaging with strong warnings and safety directions on the label.

44. Under Appendix E clause 3 of the Poisons Standard, packaging for non-medical nitrous oxide is required to include the following first aid instructions:

For advice, contact a Poisons Information Centre (e.g. phone Australia 13 11 26; New Zealand 0800 764 766) or a doctor.

45. Additionally, under Appendix F clause 4 of the Poisons Standard, packaging for non-medical nitrous oxide is required to include the following warning statement:

WARNING – May cause irreversible nerve damage if inhaled.

46. The *Drugs, Poisons and Controlled Substances Act 1981* (Vic) (**DPCS Act**) does not restrict who is authorised to supply or sell Schedule 6 poisons. This means that nitrous oxide in general can be sold and possessed by anybody.

47. However, the sale of nitrous oxide (as with any other drug or poison) is also subject to Part IV of the DPCS Act, which restricts the reasons why certain types of substances can be sold. Specifically, Under Section 57(1) of the DPCS Act, nitrous oxide is classified as a “deleterious substance”, and Section 58 of the DPCS Act states:

58 *Sale of deleterious substances*

(1) Except as otherwise expressly provided in this Act or the regulations, a person shall not sell a deleterious substance to another person if the first mentioned person knows or reasonably ought to have known or has reasonable cause to believe that the other person intends—

(a) to use the substance by drinking, inhaling, administering or otherwise introducing it into his body; or

(b) to sell or supply the substance to a third person for use by that third person in a manner mentioned in paragraph (a).

48. In summary, it is legal for any person to sell or supply nitrous oxide in Victoria, so long as they do not know or believe (within reason) that the nitrous oxide is for recreational use.

RBJ's access to nitrous oxide

49. The available evidence indicates that RBJ purchased nitrous oxide from NangWizard, an online store that states it is “*one of, if not, the most trusted & efficient Kitchen Supply Store in Melbourne.*” The website states “*Our company have [sic] 5 full time drivers situated strategically across Melbourne to ensure we can offer delivery in under one hour to any customer in Melbourne.*”
50. At my request, the Court posed a series of questions to the owner of NangWizard. Those questions related to RBJ's orders, how NangWizard ensures their customers were purchasing nitrous oxide for bona fide, non-recreational reasons, and whether any additional safety messaging was provided given the risk associated with recreational use.
51. Fayman Lawyers, acting for NangWizard's owner indicated that he objected to providing a witness statement on the ground that the provision of such may tend to incriminate him and that he therefore should be excused from giving a statement under section 50 of the *Coroners Act 2008*. Fayman Lawyers made submissions to the Court regarding same.
52. I am deeply concerned that RBJ was so easily able to purchase nitrous oxide on-line, and that such a large order was delivered to a residential address. Nevertheless, it is not my role as the Coroner to cast blame or determine criminal or civil liability in any of the cases that come before me. Rather, my role is one of prevention, and I intend to make a pertinent recommendation in that regard.

COMMENTS

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

1. To assist with contextualizing my investigation into RBJ's death, I asked the Coroners Prevention Unit¹¹ to collate revised and updated information on Victorian deaths involving recreational use of nitrous oxide.
2. The Coroners Prevention Unit advised that they identified 11 Victorian deaths between 2000 and 2023 where coroners and (in open cases) forensic pathologists determined that recreational nitrous oxide use was a contributing factor. These included seven deaths where the nitrous oxide was used in a dangerous manner (for example using a mask or plastic bag to concentrate and inhale the gas, leading to suffocation); two deaths where the nitrous oxide was used in a dangerous setting (for example in a pool or by a river where a person affected by nitrous oxide could not recover from submersion); and two deaths where chronic high-level nitrous oxide use impacted health (for example leading to vitamin B12 deficiency, malnutrition, self-neglect). That eight of these 11 deaths occurred since 2020 is particularly concerning, though the numbers are in absolute terms too low to draw any strong conclusions about trends.
3. I note that in two of these recent deaths, my colleagues made comments or recommendations encouraging the Victorian Department of Health to consider developing new education resources for recreational nitrous oxide users, describing risks in the use of the drug (such as the risk of suffocating when a mask is used to concentrate and inhale nitrous oxide).¹² I likewise distribute this finding for information to the Victorian Department of Health, in case the above updated data - together with the circumstances of this case - assists in its activities aimed at educating nitrous oxide users about potential harms and how to reduce them.
4. I am aware that multiple states have either implemented or are considering implementation of restrictions on the public's access to nitrous oxide for non-medical purposes. Among these, the proposed restrictions in Western Australia would appear to be the strictest – essentially

¹¹ The CPU was established in 2008 to strengthen the coroners' prevention role and assist in formulating recommendations following a death. The CPU is comprised of health professionals and personnel with experience in a range of areas including medicine, nursing, mental health, public health, family violence and other generalist non-clinical matters. The unit may review the medical care and treatment in cases referred by the coroner, as well as assist with research related to public health and safety.

¹² Deputy State Coroner Caitlin English, Finding without inquest in the death of Yunjie Zhang, reference COR 2020 004299, delivered 28 October 2021; Deputy State Coroner Paresa Spanos, Finding without inquest in the death of AJ (name redacted), reference COR 2022 005920, delivered 5 January 2024.

banning nitrous oxide for food and beverage use from being accessible to anybody other than certain food and hospitality businesses.¹³

5. While I understand that the Western Australian initiative is motivated by community concern around recreational nitrous oxide use and its associated harms, I am not convinced that such an extreme approach is necessarily going to reduce overall drug use and related harms – from a harm reduction perspective, prohibition of a drug seldom if ever results in demand vanishing, and usually shifts demand to other drugs that may be even more dangerous.
6. I prefer the South Australian approach, which would appear to be more in line with harm reduction principles – tightening access to manage risky use without tipping over into prohibition. South Australia’s state-based restrictions include not selling or supplying nitrous oxide to those under the age of 18; not selling between certain hours; and not displaying nitrous oxide products to the public in retail stores.¹⁴
7. I further note that NSW is currently considering a range of reforms to regulate sale of non-therapeutic nitrous oxide, which focus on harm reduction rather than outright prohibition. The proposed reforms include limiting the size of nitrous oxide cylinders that can be sold; limiting the amount that can be purchased at once; and prohibiting same day delivery for retail supply.¹⁵
8. Finally, I note that at the present time access to non-therapeutic nitrous oxide is subject to minimal regulation at the federal level: nitrous oxide is listed under Schedule 6 of the Poisons Standard, which means it must be sold with appropriate consumer warnings about the dangers of inhalation, but otherwise there are no restrictions on sale and purchase. I understand that this federal regulation is the result of a careful and comprehensive Therapeutic Goods Administration review conducted during 2021 into how to address the harms associated with recreational nitrous oxide use. At the conclusion of that review, the TGA delegate commented:

I reiterate my view that reducing harms from the misuse of nitrous oxide requires a range of strategies beyond scheduling. Should it be necessary,

¹³ Government of Western Australia Department of Health, “Nitrous oxide supply restrictions”, 24 March 2024, <https://www.health.wa.gov.au/Articles/N_R/Nitrous-oxide-supply-restrictions>, accessed 27 June 2024.

¹⁴ South Australia Attorney-General’s Department, “Nitrous oxide regulations”, undated, <<https://www.agd.sa.gov.au/law-and-justice/legislation/nitrous-oxide-regulations>>.

¹⁵ The proposed reforms for consultation are described in New South Wales Ministry of Health, Nitrous Oxide Reforms: Consultation Paper, St Leonards: NSW Ministry of Health, March 2024

*consideration of further conditions may be considered in the future, including restrictions on sales quantities.*¹⁶

9. Therefore, I distribute this finding for information to the TGA, to assist them in tracking evidence regarding harms arising from the recreational misuse of nitrous oxide.

RECOMMENDATIONS

Pursuant to section 72(2) of the Act, I make the following recommendations:

1. In the interests of promoting public health and safety and with the aim of preventing like deaths, I recommend that the Victorian Department of Health review measures either implemented or under consideration in South Australia and New South Wales to reduce harms associated with recreational nitrous oxide use, and determine whether any similar measures might be appropriate to introduce in Victoria, taking into account relevant harm reduction principles.

FINDINGS AND CONCLUSION

1. Pursuant to section 67(1) of the *Coroners Act 2008* I make the following findings:
 - a) the identity of the deceased was RBJ, born May 1997;
 - b) the death occurred on 11 September 2023 at Elsternwick, Victoria 3185;
 - c) I accept and adopt the medical cause of death ascribed by Dr Hans de Boer and I find that RBJ died from suffocation due to inhaling nitrous oxide;
2. AND, having considered the available evidence, I am satisfied that RBJ's death was the unintended consequence of his intentional use and abuse of nitrous oxide.

I convey my sincere condolences to RBJ's family for their loss.

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

¹⁶ Therapeutic Goods Administration, "Notice of final decisions to amend (or not amend) the current Poisons Standard in relation to nitrous oxide", 8 October 2021, <<https://www.tga.gov.au/resources/publication/scheduling-decisions-final/notice-final-decisions-amend-or-not-amend-current-poisons-standard-relation-nitrous-oxide>>.

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

RBJ's father

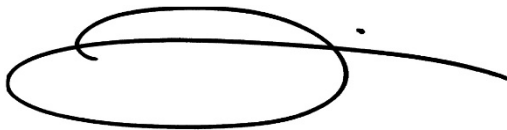
RBJ's mother

Ms Jenny Atta PSM, Secretary, Department of Health

Therapeutic Goods Administration

Sergeant Robyn Skinner, Coronial Investigator

Signature:



AUDREY JAMIESON

CORONER

Date: 11 November 2025



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.
