IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2016 2558

# FINDING INTO DEATH WITH INQUEST

*Form 37 Rule 63(1)*
*Section 67 of the Coroners Act 2008*

| | |
|---|---|
| Deceased: | Naser Vukovic |
| Delivered on: | 4 April 2022 |
| Delivered at: | Coroners Court of Victoria,<br>65 Kavanagh Street, Southbank |
| Hearing dates: | 18, 19, 20, & 21 October 2021 |
| Findings of: | Deputy State Coroner Caitlin English |
| Counsel assisting the Coroner: | M Fitzgerald<br>Instructed by G Horzitski |
| Counsel for Mr Vukovic's family | O Lesage<br>Instructed by Maurice Blackburn Lawyers |
| Counsel for Forensicare: | R Ajzensztat<br>Instructed by Lander & Rogers |

| | |
|---|---|
| Counsel for Corrections Victoria: | M O'Sullivan<br>Instructed by Victorian Government Solicitor's Office |

**TABLE OF CONTENTS**

## INTRODUCTION

1. Naser Vukovic (**Mr Vukovic**) was born on 16 February 1974. He was aged 42 years when he died on 8 June 2016 from a self-inflicted injury to his neck while in custody at the Melbourne Assessment Prison.

2. In 1991, Mr Vukovic's life was significantly affected by the deaths of his father and younger brother in a motor vehicle incident. At this time, he had almost completed Year 11 but subsequently withdrew from high school and did not proceed to obtain any formal qualifications nor trade. He thereafter obtained occasional paid work.

3. At the time of his death, Mr Vukovic had a lengthy criminal history, dating back to 1993. He had served prior terms of custody in 2007 and 2011.

4. His sister, Drita de Fegely (**Mrs de Fegely**), provided a loving narrative of her brother's life. She described her brother as painfully shy with a heart of gold. She noted that she suspected her brother used recreational drugs, but she attributed his eventual addiction to GHB and ice to two destructive relationships. Mrs de Fegely heroically continued to support her brother and tried to help Mr Vukovic 'get clean' but he did not maintain his sobriety.

5. On 22 September 2015, Mr Vukovic was involved in an incident in which a male was stabbed multiple times. Mr Vukovic was subsequently arrested and charged in relation to this incident.

6. On 26 September 2015, Mr Vukovic was taken to the Melbourne Assessment Prison.[1] From this date until his death, Mr Vukovic remained in custody. Over the following months, he was transferred between Port Phillip Prison, Barwon Prison, and the Melbourne Assessment Prison.

7. In April 2016, Mr Vukovic was sentenced to one year and two months imprisonment.

---

[1] Melbourne Assessment Prison is a 256-bed maximum security facility providing the primary state-wide assessment and orientation services for male prisoners received into the prison system. Melbourne Assessment Prison comprises units with different roles or functions such as protection or workforce. Where possible, prisoners with similar status, such as 'remanded' or 'sentenced', are accommodated together. Level 4, Unit 2 (Latrobe) a mainstream unit and accommodates a number of P1 prisoners on an observational regime and/or on a secure treatment order under *Mental Health Act 2014 (Vic).* Level 5 contains 61 beds with Units 9 (Bourke) and 10 (Exhibition) that accommodate prisoners with significant protection, placement, and/or mental health needs and unit 13 (Russell) is one of four units to accommodate prisoners with significant protection, placement, and/or mental health needs. It contains six observation Muirhead cells. Units 11 (Flinders) and 12 (Collins) are referred to as the voluntary admission Acute Assessment Unit, which is staffed on a 24-hour basis by psychiatric nurses. Other units specific to Mr Vukovic's placement include Frankston, Swanston, and Latrobe, which are mainstream units.

8. On 8 April and 8 May 2016, whilst in custody, Mr Vukovic self-harmed on two occasions.

9. On the morning of 8 June 2016, Mr Vukovic was found lifeless in a pool of blood in his cell at the Melbourne Assessment Prison. He had self-inflicted a wound to the right side of his neck with a blade from a disposable razor. Despite receiving treatment from prison staff, Ambulance Victoria paramedics, and the Metropolitan Fire Brigade, Mr Vukovic could not be revived and was pronounced deceased at 10.38am.

## THE CORONIAL INVESTIGATION

10. Mr Vukovic's death was reported to the Coroners Court as it fell within the definition of a reportable death in the *Coroners Act 2008* (**the Act**) because he was in custody at the time and further, his death appeared to have been unexpected, unnatural or violent or to have resulted from accident or injury.

11. Coroner Rosemary Carlin initially had carriage of this investigation. In September 2019, Her Honour was appointed to the County Court, and I took over this investigation.

### The coronial role

12. Coroners independently investigate reportable deaths to find, if possible, identity, cause of death and the surrounding circumstances of the death.[2] Cause of death in this context is accepted to mean the medical cause or mechanism of death. Surrounding circumstances are limited to events which are sufficiently proximate and causally related to the death.

13. Under the Act, coroners have an additional role to reduce the number of preventable deaths and promote public health and safety by their findings and making comments and or recommendations about any matter connected to the death they are investigating.

14. When a coroner examines the circumstances in which a person died, it is to determine causal factors and identify any systemic failures with a view to preventing, if possible, deaths from occurring in similar circumstances in the future.

[2] The exceptions being cases where an inquest was not held, the deceased was not in state care and there is no public interest in making findings as to circumstances: section 67 of the Act.

15. The standard of proof applicable to findings in the coronial jurisdiction is the balance of probabilities and I take into account the principles in *Briginshaw*.[3]

**Mandatory inquest**

16. Mr Vukovic was in the custody of the State when he died and an inquest into his death is mandatory. As Mr Vukovic was a sentenced prisoner this ensures the independent scrutiny of the circumstances surrounding the death of a person for whom the State has assumed responsibility.

17. The scope of the evidence at inquest considered the management of Mr Vukovic's mental health and risk whilst he was in custody, his access to razors despite the fact that he had had two previous self-harming incidents using the same method, the fact he was on the waiting list for the Acute Assessment Unit (which would have restricted his access to razors) as the 16-bed unit was full at the time, and what was done to ameliorate his risk when he was waiting for a bed at the acute assessment unit. As well as considering the management of Mr Vukovic's mental health and suicide risk, the inquest sought to explore any potential for improvement and opportunities for prevention.

18. The inquest scope was as follows:

    (a) Cause of death:

        (i) What was the likely mechanism of Mr Vukovic's fatal injury?

        (ii) Was Mr Vukovic's fatal injury self-inflicted?

    (b) The inquest considered the circumstances in custody leading up to Mr Vukovic's death including:

        (i) His incidents of his self-harm in custody.

        (ii) The management of his mental health and suicide and self-harm risk in custody.

---

[3] *Briginshaw v Briginshaw* (1938) 60 CLR 336, especially at 362-363. *"The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding, are considerations which must affect the answer to the question whether the issues had been proved to the reasonable satisfaction of the tribunal. In such matters "reasonable satisfaction" should not be produced by inexact proofs, indefinite testimony, or indirect inferences …".*

(iii) Given his movement within the prison system, the nature of communication between agencies and prisons regarding Mr Vukovic's health and suicide and self-harm risk.

(c) The inquest considered the use of the 'S' and 'P' rating system for managing suicide and self-harm risk and mental health management:

(i) Was the system complied with?

(ii) How are S and P rated prisoners triaged and allocated to units/beds when there are inadequate resources to comply with policy?

(d) The inquest considered whether current policies and procedures adequately address the risk of suicide and self-harm, such as Mr Vukovic's and the impact of:

(i) Resourcing limitations, and

(ii) Potential stop-gap measures to reduce immediate risk while there are mental health treatment backlogs, (Zoning further prison units for no sharps/plastics/cords.)

## OTHER INVESTIGATIONS

19. Section 7 of the Act requires the coroner to liaise with other investigative authorities and to not unnecessarily duplicate inquiries and investigations. I have been provided with the Justice Health and Justice Assurance and Review Office (**JARO**) reports, both of which are included in the coronial brief.[4]

### Justice Health review

20. Justice Health has responsibility for the delivery of health services (including drug and alcohol services) to Victoria's prisoners. It contracts out the delivery of primary health care in Victoria's 14 public prisons, including the Melbourne Assessment Prison, to Correct Care Australasia Pty Ltd (**Correct Care**). Psychiatric services are provided by Forensicare.

21. Justice Health commissioned an independent review of the mental health care provided to Mr Vukovic in the lead up to his death. The review was conducted by two senior clinicians at the Justice Health and Forensic Mental Health Network in New South Wales.

---

[4] Coronial Brief (**CB**) 249, 217.

22. The review found that the use of 'S' and 'P' risk ratings for Mr Vukovic were consistent with the definitions outlined in the Commissioner's Requirement and they were increased or downgraded as appropriate. The frequency of observations and reviews were also increased as necessary.

23. In summary, the review found that mental healthcare, including assessment, review, follow-up, and risk management, provided to Mr Vukovic while he was incarcerated was reasonable and in accordance with the relevant policies and guidelines.

24. The review did not make any recommendations directly related to the care provided to Mr Vukovic. However, the review recommended improvements, including staff rostering practices promoting prisoners being assessed by the same clinician where possible, scheduling regular multidisciplinary case reviews, and reviewing the roles of Clinical Coordinators and improving clinical documentation. There recommendations have been implemented.[5]

**Justice Assurance and Review Office**

25. Prisoner deaths are also reviewed by the JARO. The JARO is a part of the Department of Justice and Community Safety (**DJCS**) and reports to the Secretary of the Department, who is responsible for the monitoring of all correctional services to achieve the safe custody and welfare of prisoners and offenders.[6]

26. In preparing its report for the Secretary, the JARO had regard to the report prepared by Justice Health.

27. The JARO report reviewed the circumstances leading to Mr Vukovic's death. In summary, the JARO made the following findings:

    (a) Mr Vukovic's general custodial management (excluding his placement, which is discussed below) was appropriate. Custodial staff actively engaged with him, which included asking him if he had any concerns about his health and wellbeing and encouraging him to speak with a psychiatric nurse if needed;

    (b) although Mr Vukovic had self-harmed with razors on two occasions in the two months preceding his death, at the time of his death his Risk Management Plan did

[5] CB 275-282.
[6] Section 7 of the *Corrections Act 1986.*

not record any restrictions regarding sharps. He therefore had unrestricted access to razor blades;

(c) had Mr Vukovic been accommodated in the Acute Assessment Unit, his access to razor blades would have been restricted;

(d) Mr Vukovic's placement did not meet the requirements of the Melbourne Assessment Prison's 'at risk' policy in place at the time of his death. As a P1 and S3 rated prisoner, he should have been accommodated in the Acute Assessment Unit rather than a mainstream unit; and

(e) the Acute Assessment Unit[7] only had 16 beds, which made the 'at risk' policy in place at the time of Mr Vukovic's death impracticable. The number of prisoners who required placement in that unit far exceeded the number of available beds.

28. The JARO report also informed the Court that because the 'at risk' policy was operationally unviable, the Melbourne Assessment Prison has now updated its policies so that P1 prisoners with an S3 or S4 rating no longer need to be accommodated in the Acute Assessment Unit. The new policy appears to be operationally viable. However, this does not remove the risk of a mentally ill prisoner being placed in a unit where they may have access to razor blades. The policy at the time of the JARO report did not explain how to safely manage P1 prisoners with an S3 or S4 rating who are accommodated outside of the Acute Assessment Unit.

29. The report made a recommendation that Melbourne Assessment Prison and Forensicare develop options to strengthen management of prisoners who have recently self-harmed, particularly those with dual S and P ratings who are not accommodated on Level 5. In response to this recommendation, discussions took place between Melbourne Assessment Prison and Forensicare which focused on prisoners with P1 and S3 ratings who were on the Acute Assessment Unit waiting list. Melbourne Assessment Prison and Forensicare prepared an action plan to address accommodation needs of P1 prisoners. Alternative accommodation

[7] The Acute Assessment Unit is a 16-bed short stay assessment unit for prisoners thought to be mentally ill and/or at risk. Another six beds available in the adjacent Russell observation unit. The multi-disciplinary staff in the unit provide psychiatric assessments and a range of short-term interventions and support. The assessments are used to determine future treatment and detention needs. Prisoner participation in the services provided within the Acute Assessment Unit is voluntary. Referrals to the unit are made from the Reception Assessment Program and other male prisons in the state (both public and private). Prisoners eligible for referral include acutely disturbed/suicidal prisoners requiring close observation, prisoners who are thought to suffer from a psychiatric illness and who need assessment and early treatment, unconvicted persons remanded by courts for psychiatric assessment and prisoners requiring psychiatric assessment for releasing authorities or future placement in the mental health or prison system.

options would be considered on a case-by-case basis, and they have discussions and meetings to '*assess and determine the most appropriate placement options for this cohort*.'[8]

30. How the response to this recommendation would impact on someone with Mr Vukovic's ratings (P1 and S3) was explored at Inquest. Mr Scott Swanwick, Director of Health Services and Clinical Governance, Justice Health, stated Mr Vukovic could go to the Ravenhall Correctional Centre inpatient unit or if he required compulsory treatment, he could be transferred to Thomas Embling hospital,[9] which is now facilitating quicker access for compulsory treatment.[10]

31. The court was advised that in 2020, there were 29 prisoners per day at Melbourne Assessment Prison with a P1 and S3 rating. Mr Swanwick advised these prisoners could be transferred to Ravenhall Correctional Centre but noted as mental health acuity has increased in the general and the prison population, '*we are constantly trying to play somewhat catch up in regard to access to services from an inpatient perspective*.'[11]

32. As the evidence in the Inquest established, there no not appear to have been any options developed to strengthen management of prisoners who have recently self-harmed, particularly those with dual S and P ratings who are not accommodated on Level 5.

**Sources of evidence**

33. As part of the coronial investigation, the Coroner's Investigator prepared a coronial brief in this matter. The brief includes statements from witnesses, including family members, the forensic pathologist, treating clinicians and investigating officers.

34. To assist my investigation, the Court's Coroners Prevention Unit reviewed the medical evidence and provided advice regarding Mr Vukovic's mental health care whilst in custody.

35. The inquest ran for four days and heard evidence from seven witnesses, including Mr Vukovic's sister, Mrs de Fegely, Dr Danny Sullivan (the Executive Director of Clinical Services at the Victorian Institute of Forensic Mental Health), and Scott Swanwick (Director of Health Services and Clinical Governance, Justice Health).

---

[8] CB 276.
[9] Thomas Embling Hospital is a 116-bed secure forensic mental health hospital in Melbourne. It provides acute and continuing care programs. Patients are generally admitted to the hospital from the criminal justice system under the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 (Vic),* the *Mental Health Act 2014 (Vic),* or the *Sentencing Act 1991 (Vic).*
[10] T 333.
[11] T 333.

36. This finding is based on evidence heard at inquest, as well as the material in the coronial brief, material tendered during the inquest and the submissions received from the parties following the conclusion of the evidence. I will refer only to so much of it as is relevant to comply with my statutory obligations and necessary for narrative clarity.

**Family concerns**

37. Mrs de Fegely made four statements which are in the coronial brief and she gave evidence at the inquest.

38. She detailed her concerns regarding Mr Vukovic's care and treatment in custody. Many of her concerns were within the inquest scope for example why Mr Vulovic had access to a razor blade and why he was not on suicide watch. Mrs de Fegley stated she did not realize he had used a razor blade for his prior acts of self-harm. She said she asked her brother, how, with a full beard, he obtained a blade in prison, and he replied, '*You just buy them*.'[12] Mrs de Fegley was also concerned about the negative impact on Mr Vukovic by the transfers between different prisons.

39. Mrs de Fegely was particularly concerned that Mr Vukovic's family and his lawyer were not told about his acts of self-harm. In evidence Mrs de Fegely described the difficulties she and her family had in accessing information about Mr Vukovic's health and medical care. She stated she often called Melbourne Assessment Prison to find out the plan was for Mr Vukovic's health. Despite the fact Mr Vukovic gave his permission for his health information to be shared with his family, privacy was cited as a reason for the non-disclosure of information. When she asked to brother to complete the form, he replied that he already had, and '*It just seemed to be going around in circles.*'[13]

40. Dr Danny Sullivan, the Executive Director of Clinical Services at the Victorian Institute of Forensic Mental Health, Forensicare, was asked about family involvement in the treatment process in custodial setting. He advised that whilst Forensicare does try to keep family informed (with the prisoner's consent) and use them as a source of information particularly about a prisoner's mental health history, he recognised it is a more complex and fraught process than in the community.[14] Dr Sullivan understood there was a 'hotline' available in Melbourne Assessment Prison, Barwon and Port Phillip Prison which a family can refer to if

[12] T 59.
[13] Transcript (**T**) 62.
[14] T 148.

concerned about a prisoner's mental health or self-harm issues.[15] Dr Sullivan stated a prisoner's written consent would be required to contact and provide information to family members. He acknowledged that at a facility like Melbourne Assessment Prison, where general health services are provided by Correct Care Australasia and mental health services are provided by Forensicare, '*for a family members it's a really confusing and complex to work out who to contact and where to contact them, rather than having a simple process where you ring a single number and you get connected to the right person who can help you.*'[16]

41. He hoped that in a case of a prisoner self-harming, if consent had been provided to contact a family member, '*we would contact them and let them know*.'[17]

42. Dr Sullivan could see practical ways of managing the situation and mentioned the challenges in the prison setting of a highly mobile staff who were moving around to different units. He referred to the NSW Justice Health and Forensic Mental Health Network which has a prisoner hotline, so family members can ring a single number statewide, and the person who answers will put them through to the appropriate prison, because a family member may not now that a relative has been transferred.

43. In terms of a document to record a prisoner's consent or authority for their health information to be shared with a family. Dr Sullivan agreed an electronic version of this on the prisoner's file '*would certainly be helpful*.'[18]

44. Mr Swanwick gave evidence that a prisoner's lawyers could gain access to their medical records, through freedom of information or with the prisoner's consent. He noted pursuant to the *Health Records Act 2001*, health information can only be accessed with consent.

45. Melissa Westin, the Deputy Commissioner of Corrections Victoria, assured the court that if a prisoner requested to share information with another party, for example a family member, they fill out an authorisation form and information will be routinely provided to the family member.[19]

---

[15] T 148.
[16] T 151.
[17] T 151
[18] T 153
[19] T 266

46. Ms Westin indicated it is not a Corrections Victoria requirement to notify family members (or the prisoner's lawyers) when a prisoner self-harms, save for the requirement to notify next of kin in an emergency situation because, '*we would otherwise be in breach of privacy obligations if we were to share that information without the prisoner's consent.'*[20]

47. Ms Westin was not sure about the exact form that was in use in 2016 but stated '*in 2016 we had a form that basically people could fill out and say, 'I give my permission to share my personal information with' and there was a dotted line for whoever it was able to be shared with.*' She stated prisoners were not routinely provided with a copy on their reception to prison, '*but certainly if someone made a request for us to share information we would provide it and likewise if somebody was contacting Corrections Victoria head office we would provide those forms so we could obtain consent before sharing information to people who were approaching Corrections Victoria*.'[21] Although Ms Westin could not speak to 2016 she indicated the relevant team that manages correspondence and phone lines into Corrections Victoria reports through her office and '*I see them regularly providing this information out.*'[22]

48. Although this issue was not formally in scope, all witnesses were questioned and asked to respond to Mrs de Fegely's evidence that the absence of information about her brother compromised her ability to support him. I am not satisfied on the evidence about the procedure or machinery in place to facilitate consent forms for prisoners and I intend to make a recommendation ensuring prisoners are aware of their right to consent to the disclosure of their health information at their reception to prison and that consent disclosure forms are centralised and readily available for prisoners to access and placed on their record and that a prisoner can nominate a support person.

## IDENTITY OF THE DECEASED

49. Mr Vukovic was visually identified by Tracey Kendall, Prison Officer, on 8 June 2016. Identity is not in issue and required no further investigation.

[20] T 298.
[21] T 264.
[22] T 264-5.

## CAUSE OF DEATH

### Likely mechanism of Mr Vukovic's fatal injury

50. On 9 June 2016, Dr Paul Bedford, Forensic Pathologist at the Victorian Institute of Forensic Medicine, conducted an autopsy upon the body of Mr Vukovic and reviewed a post-mortem computed tomography (**CT**) scan.

51. The autopsy revealed an incised wound to the right side of the neck and air embolism to the brain and heart.

52. Dr Bedford noted that the injury to the neck was reasonably superficial but damaged the right external jugular vein, which resulted in a degree of blood loss that was difficult to quantify. The CT scan identified abnormal collections of air in the brain and, in particular, involving the right side of the heart. This may have caused blockage of blood flow back to the heart and lead to death.

53. Death was therefore caused by loss of blood from the neck vein and associated air entry into the heart and brain, which is called an air embolism.

54. Toxicological analysis of post-mortem specimens identified hydroxyrisperidone (an antipsychotic medication). Dr Bedford noted that toxicology was non-contributory.

55. Dr Bedford completed a report, dated 20 September 2016, in which he formulated the cause of death as "*1(a) Incised injury to the neck".* I accept Dr Bedford's opinion as to the medical cause of death.

### Likelihood that Mr Vukovic's fatal injury was self-inflicted

56. Dr Bedford did not identify any suspicious circumstances nor clear evidence of involvement of another party.

57. Mr Vukovic was discovered when his cellmate told prison staff he could not enter the cell as it was locked from the inside. Mr Vukovic was on the floor of his cell surrounded by blood.

58. At 10.13am, a code black and resuscitation efforts commenced. Emergency services attended at 10.29am and pronounced Mr Vukovic deceased at 10.38am.

59. I am satisfied Mr Vulovic took his own life using the razor blade which was located at the scene on the floor of his cell.

## BACKGROUND CHRONOLOGY

### Melbourne Assessment Prison

60. On 26 September 2015, Mr Vukovic was remanded in custody and lodged at the Melbourne Assessment Prison where he underwent a medical and psychiatric assessment. Bruising was noted on his face and Mr Vukovic reported a history of smoking amphetamines.

### *'P' and 'S' ratings*

61. He did not receive any S or P ratings at this time. Suicide and self-harm ratings are referred to as 'S' ratings; there are four categories that range from S1 to S4 (S1 being currently at risk to S4 as not currently at risk.) The ratings denote the level of observation indicated by clinical assessment. These ratings are assigned by Justice Health clinicians and Corrections Victoria staff complete the observations.[23]

62. Psychiatric ratings are referred to as 'P' ratings and have four categories that range from P1 to P3 (P1 being a serious psychiatric condition requiring intensive and/or immediate care) to PA (suspected psychiatric condition requiring assessment.) The ratings denote the severity of an existing psychiatric condition and required intensity of care and treatment.

### Port Phillip Prison

63. On 30 September 2015, Mr Vukovic was transferred to Port Phillip Prison. He received a routine health assessment including a mental state risk assessment. His face was noted to still be swollen and his history of drug use was noted.

### Barwon Prison

64. On 8 October 2015, Mr Vukovic was transferred to Barwon Prison. Again, he received an initial routine health assessment with no health issues identified.

65. On 16 October 2015, Mr Vukovic presented to Barwon Prison staff with anxiety. He was reviewed by a psychiatric nurse at which time he reported religious-themed thinking and was described as having an odd presentation. He was assessed as suffering from anxiety

---

[23] Victorian Government Department of Justice and Regulation, Justice Health, 'Correctional Suicide Prevention Framework: Working to prevent prisoner and offender suicides in Victorian Correctional settings', 2015, pages 19 to 20.

precipitated by an upcoming court appearance but denied intentions of suicide or self-harm. He was provided with information about relaxation and meditation.

66. In November and December 2015, Mr Vukovic presented to prison staff with headaches. He was encouraged to increase his fluid intake, provided with paracetamol, and referred to an ophthalmologist.

**Port Phillip Prison**

67. On 15 December 2015, Mr Vukovic was transferred to Port Phillip Prison. Here too he received medical and psychiatric assessments. His history of substance abuse was noted but no other issues were noted.

**Barwon Prison**

68. On 4 January 2016, Mr Vukovic returned to Barwon Prison. He did not present with any medical concerns.

69. On 29 January 2016, Mr Vukovic reported anxiety; he had a bizarre presentation with religious themes and was referred for review by a psychiatrist.

70. On 22 February 2016, a mental health nurse reviewed Mr Vukovic before he attended the psychiatric review. Although Mr Vukovic claimed his anxiety had settled, he was observed to be responding to unseen stimuli, giggling inappropriately, and expressing religious themes. He denied hallucinations and any suicidal or self-harm intent.

71. On 25 February 2016, a psychiatrist assessed Mr Vukovic to be experiencing psychosis, but he did not meet the criteria to be treated compulsorily under the *Mental Health Act 2014* (Vic). Mr Vukovic denied hallucinations, suicidal or self-harm intent, and confirmed he would seek help if he became distressed.

72. On 1 and 15 March 2016, psychiatric staff assessed Mr Vukovic and found him to be still psychotic but not distressed; he continued to express religious themes. He appeared stable without risk. Monthly reviews were planned.

73. On 5 April 2016, Mr Vukovic was noted to be responding to internal stimuli, but was not distressed, and had religious-themed thinking. He appeared stable and continued to deny suicidal or self-harm intent.

**Port Phillip Prison**

74. On 5 April 2016, Mr Vukovic was transferred to Port Philip Prison for court purposes. At this time, he was medically assessed and no signs of psychosis were noted.

***County Court for Plea hearing***

75. On 7 April 2016, Mr Vukovic appeared at the County Court where he pleaded guilty.

**Port Phillip Prison**

***Self-harm incident 8 April 2016***

*S2 rating*

76. On 8 April 2016, Mr Vukovic self-harmed by cutting his left wrist with a razor blade. He was admitted to the Port Phillip Prison medical unit, St John's, for observation and assigned an S2 rating, which was the first time he received an 'S' rating during him term in custody. An S2 rating denoted current significant risk of suicide or self-harm with observations of every 30 minutes and twice weekly psychiatric reviews.[24] He was not given a P rating (which is an indicator of psychiatric illness).

77. Mr Vukovic continued to express religious themes, stating the laceration was an offer of remorse to God as a way of seeking forgiveness.

*S3 rating*

78. On 9 April 2016, at review, he was easy to engage and did not express any thoughts to suicide. He was keen to return to his accommodation unit. He was subsequently discharged from St John's unit and his suicide and self-harm rating was decreased to S3 which denoted hourly observations and a review at a minimum of every three days[25] after review with the Risk Review Team (**RRT**). The RRT is a multi-disciplinary team of mental health professionals and Corrections staff which meets daily to assess and plan the risk management of prisoners with risk ratings. For two days his access to razors and potential articles for self-harm was restricted.

---

[24] Deputy Commissioner's Instruction 1.02, 'At Risk Procedures', 9 July 2014, page 19.
[25] Deputy Commissioner's Instruction 1.02, 'At Risk Procedures', 9 July 2014, page 19.

79. On 10 April 2016, Mr Vukovic was reviewed and presented as settled. His suicide and self-harm rating was downgraded to S4. He did not express any delusions, or unusual ideas.

*S4 rating*

80. On 11 April 2016, the RRT reviewed Mr Vukovic and his S rating was lowered to S4, which indicates a prisoner only has a history of self-harm. Prisoners with a S4 rating are not subject to observations nor psychiatric or RRT review.[26]

***County Court sentencing***

81. On 13 April 2016, Mr Vukovic attended the County Court and was sentenced to a period of imprisonment of one year and two months and a three-year Community Corrections Order. His expected release date was 21 November 2016.

**Barwon Prison**

82. On 19 April 2016, Mr Vukovic returned to Barwon Prison. He was assessed upon return and maintained an S4 rating. The inter-prison transfer assessment did not identify any acute health concerns.

83. Sometime during this stay at Barwon Prison an Imam at the prison contacted Mrs de Fegely; she formed the impression he was concerned about Mr Vukovic's deteriorating state, which concerned her.[27]

84. On 27 April 2016, Mr Vukovic attended a Case Management Review Committee (**CMRC**). He stated he had not self-harmed at Port Philip Prison, had regular conversations with God, and that God would punish him if he was wrong. It was planned that Mr Vukovic would be monitored by prison staff and linked with psychiatric staff for support.

85. On 30 April 2016, Mr Vukovic was referred for mental health review after uttering religious expressions and making bizarre comments. He initially appeared restless, anxious but smiling, and wanted sleeping pills. He did not report any hallucinations or thoughts of suicide.

---

[26] Deputy Commissioner's Instruction 1.02, 'At Risk Procedures, 9 July 2014, page 19.
[27] Statement of Drita de Fegely, dated 26 September 2016, page 8 and Statement of Drita de Fegely, submitted 21 December 2018, page 4.

### *Self-harm incident 8 May 2016*

86. On the morning of 8 May 2016, Mr Vukovic self-harmed with a razor blade, causing deep cuts to his arms and a superficial cut to his neck. He required medical treatment and was treated at Geelong University Hospital (Barwon Health) where he received two units of packed cells, fluid replacement, sutures, and an overnight admission to the medical ward. He was noted to be suicidal on arrival. There, he also underwent a psychiatric assessment with Dr Joe Black, consultant psychiatrist. Mr Vukovic expressed religious-themed delusions, which distressed him.

87. At this time, Dr Black spoke with Mrs de Fegely who confirmed that Mr Vukovic had been unwell in the past with religious themes to his delusions and that these episodes were possibly triggered by drug use. The family had been concerned over past week due to the things Mr Vukovic had been saying to them.[28] Mrs de Fegely was told that her brother would have been admitted to hospital as an involuntary patient had he not been incarcerated.[29]

88. On the same day, Dr Black contacted the the Health Services Manager at Barwon Prison and explained that Mr Vukovic was medically fit for discharge, but he had psychotic features. He again noted that Mr Vukovic would have been admitted as an inpatient had he not been in the prison system. Mr Vukovic was prescribed analgesia, antibiotics, and quetiapine[30] 100 mgs BD and 25 mgs prn.[31]

## Melbourne Assessment Prison – Assessment for the Acute Assessment Unit

### *P1 and S1 rating*

89. On 9 May 2016, Mr Vukovic returned to Barwon Prison from Geelong University Hospital and was then transferred to the Melbourne Assessment Prison. During assessment, he presented as bright but fatuous and continued to express religious themes but denied any self-harm of suicide intent. He was subsequently allocated a psychiatric illness P1 rating (serious psychiatric condition requiring intensive and/or immediate care) for the first time.

---

[28] Barwon Health records.
[29] Statement of Drita de Fegely, dated 26 September 2016, page 9.
[30] Quetiapine is an atypical antipsychotic used to treat schizophrenia and bipolar affective disorder, treatment resistant major depression and generalized anxiety disorder. It causes sedation and is often chosen for that property and taken at night.
[31] Barwon Health Pharmacy Department Discharge Medication Chart and Medical Discharge Summary.

He remained at P1 until his death. His S rating increased to S1, which indicated he was an immediate risk of suicide.

90. Following assessment at the Acute Assessment Unit, Mr Vukovic was transferred to an observation cell in Russell/Unit 13 (known as a Muirhead[32] cell) on level 5 of the prison for 15-minute observations. This is an area of Melbourne Assessment Prison which is sharps restricted. He remained in a Muirhead cell from 9 until 12 May 2016.

91. On 12 May 2016 Mr Vukovic was reviewed by a psychiatric nurse and reported being lonely in the Muirhead cell. His S rating was downgraded to S3 and he remained at this level until his death. On RRT recommendation he was then moved to a single cell in a mainstream prison unit. Following a psychiatric review on 13 May 2016 his plan included an admission to the Acute Assessment Unit when a bed became available, and he was placed on the waiting list. However, Mr Vukovic remained on the waiting list for the Acute Assessment Unit until his death.

92. The Acute Assessment Unit, units 11 and 12 of Melbourne Assessment Prison, is part of level 5 which is the sharps and other suicide risks restricted area. It accommodates prisoners with acute psychiatric need for assessment or treatment.

***P1 and S3 rating***

93. Mr Vukovic was regularly reviewed while at the Melbourne Assessment Prison. He consistently reported religious-based themes and hearing voices; he consistently denied thoughts of self-harm or suicide.

94. In May 2016, Mr Vukovic's mother and sister visited. Mr Vukovic told Mrs de Fegely that he had tried to cut himself at Port Philip Prison and needed help, he was not well, and was getting disgusting images in his head that would not go away. He admitted that he needed to be in hospital and asked her to contact a prison doctor.

95. On 13 May 2016, a consultant psychiatrist assessed Mr Vukovic who presented as unkempt and malodorous. His level of concentration was poor, and he required repetition and redirection. He continued to express religious themes. He denied thoughts of self-harm or suicide. He referred to hearing whispers. It was recommended he be transferred to the Acute

[32] Muirhead cells are solitary cells to limit the risk of suicide and self-harm and include monitoring, canvas clothing and bedding.

Assessment Unit due to the severity of his symptoms and associated risks. Although he denied thoughts of suicide, he was deemed at risk of impulsive self-harm in the context of psychotic symptoms. The quetiapine dosage was increased to 300 mgs nocte and he was placed on the waiting list for admission to the Acute Assessment Unit. His ratings remained P1 and S3.

96. At this time, Mr Vukovic reported that he wanted to stop taking his medications. He continued to intermittently voice this desire until the quetiapine was later changed to risperidone.[33] Mr Vukovic was reviewed regularly by mental health clinicians. He continued to voice religious themes but denied auditory hallucinations.

97. During the week of 15 May 2016, Mrs de Fegeley raised concerns about her brother to the Specialist Family Liaison Worker at Victorian Association for the Care and Resettlement of Offenders (**VACRO**) at the Melbourne Assessment Prison. The VACRO worker contacted the Imam about Mrs de Fegeley's concerns and was told the Imam had similar concerns and that he had informed Forensicare. The VACRO worker also contacted Forensicare about the concerns and they advised that they were aware of Mr Vukovic's mental state.

## CIRCUMSTANCES OF DEATH

98. Mr Vukovic's last psychiatric assessment was on 2 June 2016, by consultant psychiatrist Dr Katinka Morton. She noted that Mr Vukovic's clinical picture was not consistent with previously documented information and that the prescribed antipsychotic was ineffective. She ceased Mr Vuvokic's quetiapine and commenced him on a trail of risperidone 1 mg daily. Although Mr Vukovic denied any thoughts of suicide or self-harm, he said he could not guarantee his safety if he was returned to Barwon Prison, and he would again self-harm. He again denied auditory hallucinations and continued to express religious themes. He presented with childlike behaviour – giggling and easily distracted.

99. The quetiapine was ceased, and Mr Vukovic was prescribed risperidone 1 mg nocte, the first dose of which was administered the next day. Mr Vukovic's ratings remained at P1 and S3.

100. On 4 June 2016, Mr Vukovic was transferred to the Swanston mainstream unit but later returned to the Franklin mainstream unit.

---

[33] Risperidone is an atypical antipsychotic drug that is used for treating schizophrenia, bipolar mania and autism.

101. On 6 June 2016, Mr Vukovic was moved to a shared cell in the Latrobe mainstream unit/Unit 2 on level 4 at the Melbourne Assessment Prison, which is a unit that complied with the Building Design Review Programme (**BDRP**). BDRP cells have design elements such as no ligature points that make them safer areas for people at risk of self-harm. Throughout his time in the mainstream area of Melbourne Assessment Prison from 12 May to 8 June 2016, regular risk assessments were completed. At no time was Mr Vukovic's access to sharps restricted.

102. Mr Vukovic was rated P1 an S3 which required hourly observations, review by a registered psychiatric nurse every three days and weekly psychiatric reviews. This regime was complied with.

103. During the evening of 7 June 2016, Mr Vukovic spoke to his cellmate about suicide via cutting to the neck area.

104. At 8.34am on the morning of 8 June 2016, Mr Vukovic telephoned his mother. A review of the transcript suggests he felt helpless, hopeless, and ambivalent; that he wanted to get better but did not know how. His mother implored him to seek help, but he stated he was reluctant to do so and did not know who to ask.[34]

105. At approximately 9.15am, Maeve England, psychiatric nurse completed a scheduled review of Mr Vukovic. He presented as fatuous,[35] was reluctant to discuss his mental health, expressed religious themes and how these had affected his daily routine, and said that he heard voices. When Ms England attempted to explore the content of the voices, Mr Vukovic only described them as intrusive thoughts. He was noted not to be depressed and with no overt behavioural evidence of psychosis, and that he slept and ate well.

106. Mr Vukovic told Ms England that he had taken two doses of risperidone (of a possible five daily doses) and had since refused it and he remained reluctant to take it. Ms England stated, '*I encouraged him to comply with the trial of medication so that we could determine if it would have been effective for him.*'[36] Ms England asked Mr Vukovic if he had any thoughts, plan or intent to harm himself or to end his life. '*Mr Vukovic clearly said that he did not*.'[37] Ms England concluded that there was no clinical indication that Mr Vukovic's risk of self-

---

[34] Records show Mr Vukovic Mr Vukovic had been previously advised of the process for seeking help and/or a crisis call on 15 May 2016.
[35] CB 973 Fatuous in psychiatry is used to describe a superficial, immature, and silly affect.
[36] CB 43.
[37] CB 970.

harm had increased to any immediate level where a more restrictive regime was required. His risk of self-harm remained chronic and required further assessment. From his JCare file Ms England could clearly see Mr Vukovic's ratings,[38] and the P1 and S3 ratings and treatment plan remained the same. She explained:

> *… his presentation appeared to be consistent with presentations to other mental health professionals. There was no signs of increased distress. He was denying that he had any thoughts, plan or intent to harm himself or end his life…there was nothing that warranted or indicated that there was a significant change that would've required a change to his P and S rating a[t] that point in time*.[39]

107. The assessment was completed by 9.25am.

108. Ms England stated she was aware from the JCare file that Mr Vukovic had self-harmed with a blade on 8 April and 8 May 2016.[40] She was also aware he was on the waiting list for the Acute Assessment Unit. She considered the ten or fifteen minutes she had to review the file and the ten or fifteen minutes she had to review Mr Vukovic was sufficient time to conduct the review and *'provide opportunity for Mr Vukovic to reason any concerns or issues that he may have wanted to have discussed on that morning*.'[41]

109. Mr Vukovic was prescribed antipsychotic medication for 9.00pm each night. The administration records show after 10 May 2016 he was administered these medications at 5.00pm on all but one occasion and there are no notations on the medication charts to suggest he refused or did not take the antipsychotic medications as prescribed.

110. This conflicts with the clinical documentation where Mr Vukovic was recorded as reluctant to take the antipsychotic medication (quetiapine and risperidone) and his report to Ms England on the morning of the day of his death that he had only taken two doses of risperidone (of a possible five daily doses). Ms England stated she encouraged Mr Vukovic to adhere to his new medication trial.

111. I note that Forensicare could not force Mr Vukovic to take the antipsychotic medications unless he was made subject to the *Mental Health Act 2014,* but his risks may have increased if he was not taking his anti-psychotic medication at the time of his death.

---

[38] T 82.
[39] T 118-9.
[40] T 84.
[41] T 86.

112. As Mr Vukovic was rated S3, he was on hourly observations by Corrections Victoria staff and was recorded as in the day room at 9.45am.

113. At 10.10am, Mr Vukovic's cellmate told prison staff he could not enter the cell as it was locked from the inside and that Mr Vukovic was on the floor surrounded by blood.

114. At 10.13am, a code black and resuscitation efforts commenced. Emergency services attended at 10.29am and pronounced Mr Vukovic deceased at 10.38am.

115. Mr Vukovic's mother had already arrived at the prison as she was so concerned after speaking with him on the phone that morning.

**Mr Vukovic's access to the Acute Assessment Unit**

116. The JARO report noted that at the time of its report all male prisoners with a P1 rating were generally accommodated at the Melbourne Assessment Prison. The JARO highlighted that the number of P1 rated prisoners has been consistently increasing.

117. Mr Vukovic had previously been housed in the Acute Assessment Unit on 9 May and in the Russell Unit (also on Level 5) between 9 May and 12 May 2016, during which times he held P1 and S1 or S2 ratings.

118. On 12 May 2016, Mr Vukovic's S rating was downgraded from S2 to S3 and he was transferred to a mainstream unit. The next day, he was placed on the waitlist for a bed in the Acute Assessment Unit. According to the JARO report, a Melbourne Assessment Prison staff member estimated there were usually between 16 to 20 prisoners on the waitlist. However, it is possible for waiting prisoners to be locked down in a cell to ensure their safety and ongoing observation.

119. At the time of his death, Mr Vukovic held P1 and S3 ratings. At this time, the Melbourne Assessment Prison's policy required prisoners with a P1 rating coupled with an S3 or S4 rating to be accommodated at the Acute Assessment Unit. However, Mr Vukovic was housed in Latrobe Unit on level 4 in a shared mainstream cell, which did not meet the required standard. This was because there were not enough beds in the Acute Assessment Unit to accommodate the number of P1 rated prisoners according to required standards – the gap was approximately 65 beds.

120. For prisoners with a P1 rating, Forensicare staff determine who should be prioritised for accommodation in the Acute Assessment Unit. For other at-risk prisoners, the RRT has responsibility for determining accommodation with regard to Forensicare advice.

121. P1 rated prisoners accommodated outside of the Acute Assessment Unit are provided with frequent ongoing mental health review by Forensicare staff every three days.

122. Dr Sullivan's evidence confirmed psychiatric care in prison should aspire to an equivalent standard that a person living in the community would receive.[42] He explained the mental health services available in the prison setting was the equivalent to that provided by a community mental health service. If someone declines treatment voluntarily or treatment is inadequate or insufficient in prison, then the next step would be to admit them to one of the bed-based units. If people cannot be sufficiently treated in the correctional setting and meet the criteria for transfer under the *Mental Health Act*, then the administrative process is commenced for transfer to Thomas Embling hospital for compulsory treatment when a person declines to consent.[43]

123. In 2016 the only bed-based unit at Melbourne Assessment Prison run by Forensicare was the Acute Assessment Unit. This facility has now been supplemented by the Ravenhall Correctional Centre, which opened in 2017 in which Forensicare operates the mental health bed-based unit. It has a forensic mental health precinct with four mental health units comprising 75 beds.

124. Dr Sullivan stated in 2016 the waiting list for the Acute Assessment Unit was extensive. He described when a person needs urgent treatment if they are expressing suicidal thoughts, and the Acute Assessment Unit was not available, '*a person will often be placed in a Muirhead cell for immediate protection while a consideration is made about where the appropriate location is*.'[44] The Acute Assessment Unit differs from a Muirhead cell. Dr Sullivan stated, '*there is nothing as awful as a Muirhead cell,'* so prisoners' are only kept there for a short time.[45]

125. As noted above, the Melbourne Assessment Prison has since amended its policy so that P1 prisoners with an S3 or S4 rating no longer need to be accommodated in the Acute

---

[42] T 122.
[43] T 125-6
[44] T 130.
[45] T 158.

Assessment Unit. While this may address the 'gap', risks remain for prisoners with the same risk ratings that Mr Vukovic had at the time of his death and the risk of a similar incident remains.

126. Dr Sullivan noted the policy that a prisoner with a P1 S3 rating should be in the Acute Assessment Unit was a Corrections Victoria Melbourne Assessment Prison policy. In his view the mental health care provided to Mr Vukovic was appropriate. Mr Vukovic could not have been kept in a Muirhead cell and as its very demoralising and difficult and will exacerbate mental health difficulties. There were insufficient beds in the Acute Assessment Unit and Mr Vukovic could not be transferred to another prison whilst he was rated P1.

127. Mr Swanwick was referred to the Justice Health Quality Framework Forensic Mental Health Standards 5.4.1 which states that prisoners with mental health issues have access to coordinated 'stepped'[46] care services in Victorian prisons. Although Mr Vukovic was on the waiting list for the Acute Assessment Unit, the evidence confirmed there is no 'in between' a mainstream unit and a Muirhead cell. Mr Swanwick conceded this was the case in Melbourne Assessment Prison in 2016 however now there are many more mental health beds at Ravenhall Correctional Centre, both in their acute, sub-acute or preparation for release phases.

128. If Mr Vukovic had been in the Acute Assessment Unit, Dr Sullivan noted although there is no benchmark for the frequency someone is seen in the Acute Assessment Unit, staff are on the floor at all times, so there would be multiple observations per day written in the medical record and this is the difference with a bed-based unit. The Acute Assessment Unit is also a sharps restricted area.

***Conclusions***

129. Forensicare is responsible for prisoners accessing to the Acute Assessment Unit. The placement of a prisoner elsewhere within the Melbourne Assessment Prison is ultimately the decision of Corrections Victoria and the RRT where P and S ratings have been assigned.

130. At the time of his death, Mr Vukovic was on the waitlist for the Acute Assessment Unit. Wait times for transfer to the Unit could be extensive but were prioritised. Justice Health's independent review found that the clinical documentation pertaining to Mr Vukovic did not

[46] T 310, Justice Health Quality Framework 2014, CB 790.

suggest any specific clinical risk that would warrant an urgent review of his prioritisation on that wait list.

131. It is clear that at the time of Mr Vukovic's death, the resources for the Acute Assessment Unit did not meet the demand. As the JARO report noted, as at 30 June 2016, there were 81 prisoners (28.6 per cent of the prison's population) that would have required accommodation in the Acute Assessment Unit in order to satisfy the risk level framework. At any one time, there were approximately 20 prisoners on the waitlist. The number of available beds at the time of Mr Vukovic's death was woefully inadequate to meet needs.

132. Evidence at inquest has shown that the gap between demand and resources remains.

133. I am satisfied that while the Melbourne Assessment Prison has updated its policies so that P1 and S3 or S4 prisoners are no longer required to be accommodated in the Acute Assessment Unit, the risk of suicide or self-harm for those prisoners has not been ameliorated – it merely enables Melbourne Assessment Prison to comply with policy.

**Mr Vukovic's access to razor blades**

134. Generally, prisoners accommodated in mainstream units at the Melbourne Assessment Prison can purchase, retain, and use razor blades. The only place where access to razor blades can be restricted is on Level 5 in the Acute Assessment Unit and the Muirhead cells in Unit 13.

135. If Mr Vukovic had been in the Acute Assessment Unit, he would not have had access to razor blades.

136. Once Mr Vukovic moved to a mainstream cell, there was nothing to stop him accessing a razor from another cell.[47] Dr Sullivan stated that there is no prospect of ameliorating that risk once he is in the mainstream prison. Dr Sullivan outlined the potential problems with a mainstream unit and trying to access to self-harm means, like razors and plastic bags, describing it as a '*a wicked problem that doesn't have a straightforward solution*.'[48]

137. Dr Sullivan was asked about Mr Vukovic's access to razors. On 5 June 2016 the risk management plan prepared by the RRT did not restrict Mr Vukovic's access to sharps or razors. The meetings are not minuted so the reasons are not known. Dr Sullivan stated with

[47] T 164.
[48] T 166.

his two prior incidents of self-harm and P1 S3 rating, there would have been a discussion by Mr Vukovic's treating team about his access to razors. Dr Sullivan noted however that from a clinical point of view, any decision to restrict access '*should be based on the most recent assessment of the prisoner's mental state, balancing the extent of the demonstrated risk with the reasonableness of the restrictions, in accordance with the obligations of the Mental Health Act to provide mental health treatment in the least restrictive and least intrusive manner as possible.*'[49] He noted Mr Vukovic had been assigned an S3 rating since 12 May 2016 and between then and 8 June 2016 had been on hourly observations, three day reviews with a mental health nurse and weekly psychiatric assessments.

138. Dr Sullivan noted between 12 May and 8 June there were no specific evidence that would have required Forensicare staff to recommend to the RRT that his access to razors be restricted. Whilst he was experiencing psychotic symptoms and remained under frequent review, he recurrently expressed that he did not wish to harm himself, but staff considered he remained at risk of self-harm. He reluctantly complied with some of his medications.[50]

139. At the time of Mr Vukovic's death, the Commissioner's Requirement 'Management of At Risk Prisoners'[51] provided that prisons should maximise the safety and management of at-risk prisoners by controlling specific articles, such as razor blades, particularly to prisoners with significant psychiatric and self-injury issues. Specifically, the Commissioner's Requirement prohibits prisoners in 'high risk' areas[52] or those who are classified with an 'at risk' rating of S1 or S2 retaining shaving equipment.

140. The Melbourne Assessment Prison's Local Operating Procedure 'Removal of Sharps and Plastic Bags'[53] provided that generally S1 and S2 rated prisoners are accommodated in the Acute Assessment Unit and be subject to a 'supervised sharps' regime (that is, their access to shavers is supervised by staff).

141. For Level 5 prisoners without an S1 or S2 risk rating (which can include P rated prisoners), the Local Operating Procedure stated that razor blades cannot be retained, and access is limited to 20 minutes.

---

[49] T 141.
[50] T 142.
[51] Issued 29 August 2014.
[52] 'At risk' areas at the Melbourne Assessment Prison are: Muirhead/observation cells, the Acute Assessment Unit, and the Spring Unit.
[53] Issued 8 March 2016.

142. The Local Operating Procedure also stated that S3 prisoners' access to razor blades can be restricted if they are accommodated in the Spencer or Latrobe Units and if restricted access is stipulated in the Risk Management Plans (as determined by the RRT). In practice, however, it is difficult to restrict their access to razor blades in these units as razors can be passed between prisoners or obtained in common areas. If a prisoner has restrictions recorded on the Risk Management Plan, in practice they would be accommodated on Level 5.

143. As noted above, at the time of his death Mr Vukovic held an S3 rating and was not accommodated in the Acute Assessment Unit, which meant his access to razors blades was not automatically restricted. His access to razor blades could have been restricted if the RRT recorded such a restriction on the Risk Management Plan, however there was no such stipulation. In fact, Mr Vukovic's Justice Health file did not contain any references to his access to razor blades and/or whether such access was appropriate. Mr Vukovic therefore had unrestricted access to razor blades, and it is believed he used a razor blade to inflict the wound in his neck.[54]

144. Melissa Westin, the Deputy Commissioner of Corrections Victoria, gave evidence. Her evidence concerned whether it was possible, where a prisoner has an S rating, to ameliorate the risk of further self-harm, without disproportionate restrictions on liberties. The current Melbourne Assessment Prison 'At Risk' Local Operating Procedure states prisoners with an S3 rating may be subjected to restricted access to razors and shaving equipment if stipulated by their Risk Management Plan.

145. She advised that only Level 5, which contains units 8 and 13 (the Muirhead cells) outside of the Acute Assessment Unit, is utilised for modified cell arrangements. At Melbourne Assessment Prison, because of the central quadrangle, which is shared across all mainstream units, it is not possible to stop a mainstream prisoner obtaining access to a razor blade from other prisoners.

146. Ms Westin was asked whether there were other areas that sharps could be restricted, other than Unit 13 and the Acute Assessment Unit. She advised Level 5 is razor blade free and prisoners with risk ratings of S1 or S2 are subjected to a 'supervised sharps' regime. Ms Westin noted this modification is practically impossible in a Level 3 with respect to

[54] At the scene, police members seized a small piece of metal that appeared to be the blade of a disposable razor, and a number of disposable razors.

razors. She agreed the reality is that if a Risk Management Plan provides for restrictions for sharps or razors, there will not be *modified* cell arrangements, the only option is for the prisoner to be in the Acute Assessment Unit or a Muirhead cell.

147. Ms Westin agreed that for a prisoner like Mr Vukovic with an S3 and P1 rating, and on the waiting list for the Acute Assessment Unit and with two prior incidents of self-harm with a razor, there was no 'in between' to restrict his access to razor blades unless he was in the Acute Assessment Unit or a Muirhead cell. In the mainstream units, restriction to razors cannot be provided.[55] Ms Westin advised his access could not be modified in a mainstream unit because he could go to cell next door or across the courtyard to get those items.

148. Whilst Ms Westin agreed there could be utility in a zoned area of the prison that restricts access to self-harm, however stated, '*there's no physical ability to do that because of the design of the building*.'[56] She stated the middle ground between the mainstream and a Muirhead cell is now the Ravenhall Correctional Centre which opened in 2017.

149. Following Mr Vukovic's death, a number of options were considered to strengthen management of these prisoners. However, the option adopted did not extend to S3 prisoners in the mainstream accommodation.

150. The JARO report concluded that despite Mr Vukovic experiencing a complex psychiatric condition in the lead up to his death and recent self-harm attempts, he was accommodated in a mainstream unit. Staff assessed him as requiring placement at the Acute Assessment Unit and he was on the waiting list to be accommodated there. However, the number of prisoners at the Melbourne Assessment Prison with serious psychiatric conditions, which are often coupled with suicide and self-harm risks, far exceeded the accommodation capacity of the Acute Assessment Unit or Level 5, which evidently precluded Mr Vukovic's access.

***Why Mr Vukovic's access to means could not be restricted***

151. As the JARO noted in their report, the Secretary of Justice and Community Safety has an obligation to ensure the safe custody of all prisoners. It is reasonable to expect that a P1 rated prisoner who displays psychotic and delusional symptoms and who is clearly vulnerable, as evidenced by two recent self-harm attempts, would have limited means to self-harm further. It is also reasonable to expect that a prisoner who has used razor blades in

[55] T 270.
[56] T 271.

two very recent self-harm attempts would automatically have their access to razor blades restricted or entirely removed.

152. The Melbourne Assessment Prison Local Operating Procedure 'Removal of Sharps and Plastic Bags', dated 8 March 2016, provided that prisoners placed in the Acute Assessment Unit and other units on level 5 could be issued with sharps prior to 10.30am, which were to be returned within 20 minutes. If not returned after 20 minutes, staff were required to retrieve the sharps from the prisoner. Moreover, if a prisoner was deemed unsuitable for unsupervised access to sharps and their Risk Management Plan stipulated other sharps management processes (such as supervised access or total restriction), this was to be followed.

153. The Local Operating Procedure provided that prisoners with a S1 or S2 risk rating were generally accommodated in the Acute Assessment Unit or a Muirhead cell and subjected to a 'supervised sharps' regime so that access to razors was supervised and restricted. Prisoners with a S3 rating could also be subjected to a restricted access regime if stipulated by the Interim and Modified Risk Management Plan.[57] Notably, the Local Operating Procedure also gave the General Manager or their delegate the right to deny a request for a shaver and sharps for safety and security reasons.

154. Compliance with the risk level framework meant that Mr Vukovic, as a P1 and S3 rated prisoner, should have been housed in the Acute Assessment Unit where his access to razor blades would have been restricted. However, at the time of his death, Mr Vukovic was accommodated the Latrobe mainstream unit/ Unit 2 on level 4, in a BDRP compliant cell (also known as a modified cell). According to the Melbourne Assessment Prison Local Operating Procedure 'At Risk Procedures', dated 8 March 2016, such a cell could accommodate the removal of supervision of access to sharps and razors if recorded by the RRT in the Interim or Modified Risk Management Plans. However, treatment plans/Risk Management Plans for Mr Vukovic did not include any reference to access to razor blades as a means. In fact, his health file contained no references to his access to razor blades and/ or whether such access was appropriate.

[57] This is reiterated by the Melbourne Assessment Prison Local Operating Procedure 'At Risk Procedures', dated 8 March 2016, which notes that prisoners with a S3 risk rating may be subjected to restricted access to razors and shaving equipment if stipulated by the Interim and Modified Risk Management Plans, at page 10.

155. And, according to staff interviews conducted by the JARO and evidence at inquest, in practice prisoners would need to be accommodated on level 5 of the Melbourne Assessment Prison to block prisoners transferring items between themselves.

156. In the context of recent cutting self-harm attempts with razors, continued risks, and placement on the waitlist for Acute Assessment Unit, it was reasonable to assume that the RRT would address Mr Vukovic's access to razor blades and other means of self-harm considering they had placed him in a BDRP cell, presumably because of his previous risks. I am at a loss as to why access to means was not addressed in his Risk Management Plan or anywhere else in his clinical records given his recent history. However, the evidence I have heard establishes that I the mainstream unit even if the Risk Review Team had restricted his access to razors this would not have been possible to facilitate. This as a significant shortfall in the management of his safety.

***Conclusions***

157. If Mr Vukovic had been in the Acute Assessment Unit, he would not have had access to razor blades.

158. In May 2016 Corrections Policy required his combined risk rating of P1 and S3 be accommodated in the Acute Assessment Unit. On 13 May 2016 he was placed on the waiting list.

159. Mr Vukovic was documented by Justice Health to be psychotic or have symptoms suggestive of psychosis and was assessed as unwell enough to be prescribed an antipsychotic and a change in antipsychotic medication, as proximate to his death as at 2 June 2016. Mr Vukovic was rated as a P1 for the duration of his stay in the Melbourne Assessment Prison and had his S rating reduced from S1 to S2 (10 May 2016) and from S2 to S3 (12 May 2016) and the S rating was unchanged at the time of his death.

160. According to the risk level framework at the time of Mr Vukovic's death, he should have been placed in the Acute Assessment Unit, however there were inadequate resources. His risks were not considered high enough to warrant prioritising on the Acute Assessment Unit's waitlist; it appears this is because of the acuity of prisoners at the Melbourne Assessment Prison, who appear to have a serious psychiatric condition and higher suicide/

self-harm rating.[58] It was a situation where policy did not reflect the operational experience of Corrections Victoria or Forensicare, and it is unlikely this was an aberration in processes, because as noted by the JARO up to 30 per cent of prisoners at the Melbourne Assessment Prison can be on the Acute Assessment Unit waitlist at any time. This brings into question the effectiveness and usefulness of such a waitlist.

161. On 6 June Mr Vukovic was moved to a shared cell in the Latrobe mainstream unit. He had a weekly psychiatric review, mental health nurse reviews every three days and corresponding review by the RRT, and risk management plans were completed.

162. Despite Mr Vukovic having had two episodes of self-harm using razor blades, the treatment or risk management plans do not include any reference to restricting Mr Vukovic's access to razor blades as a means.

163. The Corrections policy from Melbourne Assessment Prison permits a risk management plan to provide modified cell arrangements, including restrictions on access to sharps or other or potential self-harm means, however no such modification was ever specified for Mr Vukovic during the period between 12 May and 8 June 2016. In fact, the evidence from Ms Westin confirmed this policy is an unviable as it is simply not possible to be in a mainstream unit and restrict a prisoner's access to razors or sharps.

164. In the context of previous self-harm by using razors, continued risk and current placement on the waiting list for the Acute Assessment Unit, it is reasonable and appropriate to expect a conversation would have taken place between health professionals about his access to razor blades given he had been placed in a BDRP cell presumably because of his risks. However, if razor blades had been by controlled access for Mr Vukovic, it would have been impossible to implement and would have unreasonably affected his cell mate too.

165. Whilst the Melbourne Assessment Prison 'At Risk' Local Operating Procedures make provision for risk management plans to modify cell conditions such as removal or supervised use of razors, the JARO report noted the difficulties in restricting access to means because items such as razors are small and easily passed between prisoners. The Melbourne Assessment Prison 'At Risk' Local Operating Procedures should be amended to reflect the reality, namely the practical difficulties of ameliorating these risks.

---

[58] Justice Health, 'Independent review of mental health care provided to Mr Naser Vukovic leading up to his death', 23 January 2017, page 29.

166. The policies, procedures and standard operating procedures that applied at the time of Mr Vukovic's death appear to have been followed by staff including the frequency of reviews and observations, except for the risk level framework.

167. Despite policy change at the Melbourne Assessment Prison, which removed the requirement for P1 rated prisoners with a dual rating of S3 or S4 to be accommodated in the Acute Assessment Unit, the risks clearly remain.

**New mental health beds**

168. The JARO noted that the new Ravenhall Correctional Centre has a 75-bed mental health unit, which more than doubled the correction system's capacity to accommodate mentally ill prisoners. Ravenhall Correctional Centre also provides an outpatient program to prisoners. The new prison reduces the pressure on the Melbourne Assessment Prison's Acute Assessment Unit.

169. The JARO noted that Thomas Embling Hospital has also expanded, albeit to a more limited extent.

170. While the extra beds are welcomed and will alleviate some of the acute accommodation pressures, the JARO noted that given the over-representation of people with a mental illness in the general prison population, the corrections system is likely to face an ongoing and growing challenge.

171. The JARO was asked to provide an update on the impact of the opening of Ravenhall Correctional Centre. In October 2018, the JARO advised that the opening of Ravenhall Correctional Centre has allowed more prisoners with mental health issues to be accommodated in a more therapeutic environment than the Melbourne Assessment Prison's Acute Assessment Unit would ever allow. However, the forensic mental health units at Ravenhall generally operate at capacity. At the time of the response, there was also a significant waitlist for the Thomas Embling Hospital.

172. The JARO noted that with Ravenhall Correctional Centre's forensic mental health units and the Melbourne Assessment Prison's Acute Assessment Unit being at, or near, full capacity, the placement of P1 prisoners will continue to pose challenges for Corrections Victoria.[59]

[59] Email, dated 8 October 2018.

173. In its March 2020 update, the JARO advised me that the total number of P-rated prisoners, including P1, P2, and P3, decreased at the Melbourne Assessment Prison from a daily average of 189 in November 2017 to 157 in January 2020. Since the opening of Ravenhall Correctional Centre, the daily average number of P-rated prisoners at the Melbourne Assessment Prison has fallen to 142. Currently, the Melbourne Assessment Prison accommodated 62 per cent of Victoria's P1-rated prisoners, which has decreased from 99 per cent in the month prior to Ravenhall Correctional Centre opening.

174. However, the JARO also noted that despite the opening of Ravenhall Correctional Centre, the number of prisoners accommodated at the Melbourne Assessment Prison with *dual* P1 and S3 risk ratings has increased from a daily average of 17 prisoners in November 2017 to 29 prisoners in January 2020. This is likely due to an increase in Victoria's male prisoner population as there has been a four per cent decrease in the proportion of dual P1 and S3-rated prisoners across the men's system accommodated at the Melbourne Assessment Prison.

**FINDINGS**

Pursuant to section 67(1) of the *Coroners Act 2008* I find as follows:

(a) the identity of the deceased was Naser Vukovic, born 16 February 1974;

(b) Mr Vukovic died on 8 June 2016 at Melbourne Assessment Prison, 317 Spencer Street, West Melbourne, Victoria, from an incised injury to the neck; and

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

**COMMENTS**

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

1. The Melbourne Assessment Prison is a high-volume custodial environment and Corrections Victoria is tasked with placing prisoners within the available resources. Forensicare is explicitly linked to prisoner placement within the Melbourne Assessment Prison because it assigns S and P ratings, which guides the implementation of treatments, reviews and observation practices and processes. Efficiency pressures should not impact on the quality of an assessment of a prisoner's mental state which will inform treatment planning, the S rating

allocated and influence the decision of the RRT on the appropriate placement of a prisoner, frequency of observation and management of associated risks.

2. The Melbourne Assessment Prison has changed the risk level framework which will allow a prisoner with a P1 and S3 rating to be housed outside of the Acute Assessment Unit and still comply with the framework. While this will reduce the incidence of non-compliance with a framework that was unrealistic, it will not mitigate the risk to the individual prisoner. The changes to the access to razor blades will not restrict access to razor blades for a prisoner in similar circumstances to Mr Vukovic. It is reasonable that if the RRT requires a prisoner on a P or S rating to be placed in a BDRP compliant cell because of self-harm risks that some thought to access to means, other than hanging points, be undertaken as part of the Risk Management planning process.

3. Reducing or eliminating access to means is widely regarded as playing a significant role in suicide prevention.

4. While recognising that the number of prisoners with a mental illness in the prison population has increased and the number of completed suicides within the Victorian prison system has decreased over the previous 30 years,[60] demand for access to assessment units such as the Acute Assessment Unit within Melbourne Assessment Prison is unabated, with its continued role to accept all P1 male prisoners across Victoria and in the context of absorbing delays created by the demand on Thomas Embling Hospital beds.

5. According to the JARO, the Acute Assessment Unit has been refurbished, but the number of beds has not increased. Consequently, the likelihood of a prisoner in similar circumstances in the Melbourne Assessment Prison with the associated clinical risks and vulnerabilities and who is placed in a mainstream unit remains. The changes made by Forensicare should result in a more team-based approach to providing care to prisoners in the Melbourne Assessment Prison. The creation of bed flow and coordinator positions will add rigour to the waitlist management at the Acute Assessment Unit.

6. Investment in mental health services accessible by those in prison is required to facilitate the equivalency of care. There is a shortfall in forensic mental health beds and the shortfall reflects the number of people with mental health conditions entering the prison system.

---

[60] Victorian Government Department of Justice and Regulation, Justice Health, 'Correctional Suicide Prevention Framework: Working to prevent prisoner and offender suicides in Victorian Correctional settings', 2015, pages 8 to 9.

## RECOMMENDATIONS

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

To the **Secretary, Department of Justice and Community Safety**:

1. Corrections Victoria and Justice Health ensure Risk Review Teams, when considering Risk Management Plans, document consideration of access to means (in addition to hanging points) for example, razor blades, when requiring prisoners to be placed in a BDRP compliant cell. This is to occur for all Melbourne Assessment Prison prisoners required to be placed in a BDRP compliant cell as part of the Risk Management planning process in the Risk Review Teams.

2. Corrections Victoria and Justice Health, in consultation with Forensicare, update the Melbourne Assessment Prison 'At Risk' Local Operating Procedures that makes provision for Risk Management Plans to specify 'modified' cell conditions, including removal or supervised use of sharps, razors and other suicide and self-harm means, to remove the reference to cell modifications including restriction on access to sharps and razors, as this cannot be practically implemented or achieved.

3. Given eliminating access to means is recognised as a significant suicide prevention method, Corrections Victoria and Justice Health, in consultation with Forensicare investigate and, if possible, develop and implement an 'in between'[61] unit within the Victorian prison system in which access to suicide or self-harm means, such as razors and sharps, can be practically restricted where necessary, for example where a prisoner has a history of self-harm by that method, to manage and reduce suicide and self-harm risk.

4. Corrections Victoria and Justice Health implement a system to ensure prisoners are aware of their right to consent to disclosure of their health information. Such a system should include a provision for information and consent forms at key stages, for example, on reception to prison. Consent forms should also be available for family and friends when visiting a prisoner. Whilst it will always remain the prisoner's right to provide or decline consent, those who would most benefit from permitting a supporter to be involved in their health care will likely need assistance to navigate a system for providing their consent.

---

[61] In between refers to between mainstream unit and a Muirhead cell.

5. As part of the above system for the provision of consent to disclose health information, Justice Health should work with Forensicare to develop a system whereby prisoners who require mental health care and treatment can nominate a support person to provide non-legal advocacy for prisoners experiencing mental ill health. Consideration should be made to implementing a system similar to the nominated person provisions in the *Mental Health Act* 2014.

6. The Department of Justice and Community Safety review the mental health resources available at the Melbourne Assessment Prison where all male prisoners with a serious psychiatric condition requiring intensive and/ or immediate care (P1 rated) in Victoria are generally housed. Given the shortfall for forensic mental health beds is a systemic issue, the review should include:

   (a) the resources required to provide contemporary mental health assessment and care in a high volume, high acuity custodial setting be it bed-based assessment beds or clinical teams that have the time to undertake comprehensive assessments and reviews; and

   (b) the impact on the Melbourne Assessment Prison of the demand for finite Thomas Embling Hospital beds, and how it influences decision-making on the housing of prisoners with a mental illness.

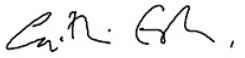
Pursuant to section 73(1) of the *Coroners Act 2008,* I order that this Finding be published on the internet.

I convey my sincere condolences to Mr Vukovic's family.

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

Zula Vukovic, Senior Next of Kin (copy to Drita de Fegely and Maurice Blackburn Lawyers)
Rebecca Falkingham, Secretary, Department of Justice and Community Safety (on behalf of Justice Health and Corrections Victoria) (care of Victorian Government Solicitor's Office)
Correct Care Australasia Pty Ltd (care of Meridian Lawyers)
Victorian Institute of Forensic Mental Health (Forensicare) (care of Lander & Rogers)
Office of the Chief Psychiatrist
Barwon Health
Senior Constable Luke Ehrenberg, Coroner's Investigator, Victoria Police

Signature:




**CAITLIN ENGLISH**
**DEPUTY STATE CORONER**
Date: 4 April 2022