QUEENSLAND COURTS

CORONERS COURT OF QUEENSLAND

FINDINGS OF INQUEST

CITATION:	**Inquest into the death of Peter Timms**
TITLE OF COURT:	Coroners Court
JURISDICTION:	BRISBANE
FILE NO(s):	2020/1635
DELIVERED ON:	13 March 2023
DELIVERED AT:	Brisbane
HEARING DATE(s):	7 March 2023
FINDINGS OF:	Terry Ryan, State Coroner
CATCHWORDS:	Coroners: inquest, death in custody, elderly prisoner, natural causes, acute myeloid leukaemia, whether there was a delay in diagnosis and treatment.

REPRESENTATION:

Counsel Assisting:	Ms Sarah Lio-Willie
Queensland Corrective Services:	Ms Vanessa Price
Metro South Health:	Ms Myla Ruttan
Metro North Health:	Ms Natalie Mason

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Introduction

1. Peter John Timms was aged 71 at the time of his death. He was serving a term of imprisonment at the Woodford Correctional Centre (WCC). Mr Timms had aggressive acute myeloid leukaemia (AML) and had a terminal prognosis.

2. On 19 April 2020, he experienced worsening fatigue and shortness of breath and was admitted to the Caboolture Hospital for palliative care. His condition continued to deteriorate, and he died in hospital the following day.

The investigation

3. The Corrective Services Investigation Unit (CSIU) was advised of Mr Timms' death and attended the Caboolture Hospital on 20 April 2020, together with a Scenes of Crimes Officer. Detectives from the CSIU arrived at the hospital at 9.45am.

4. The CSIU investigation into the death included obtaining medical and QCS records, interviewing Mr Timms' family about their concerns, and obtaining statements from relevant treating medical officers and Corrective Services Officers.

5. Mr Timms' sister, Ms Falls, raised a number of concerns shortly after his death. Ms Falls was concerned that her brother was crying out for help. He sent many written requests for medical assistance but did not receive it. She also stated that Mr Timms repeatedly complained of open wounds, unusual bleeding, frequent infections, difficulty breathing and persistent fatigue, which are all common symptoms of Acute Myeloid Leukaemia. Ms Falls questioned why it took so long for his condition to be diagnosed after he repeatedly asked for blood tests, and why he was discharged back to WCC when he was so unwell.[1] Ms Falls was also concerned about a lack of communication with her as Mr Timms' next of kin.

6. A Coronial Report was prepared and provided to the Coroners Court in June 2020. The investigation concluded that there appeared to be no insufficiency of care, and there were no suspicious circumstances in relation to Mr Timms' death. [2]

7. In November 2021, the Clinical Forensic Medicine Unit (CFMU) was asked to examine Mr Timms' health care and consider:

    - If there was a missed opportunity for diagnosis of leukaemia; and
    - Would an earlier diagnosis have been outcome changing?

8. Dr Hall from the CFMU provided a report for the Coroners Court in October 2022.[3]

[1] Ex B1
[2] Ex A8 – Death in Custody report.
[3] Ex A9

The inquest

9. At the time of his death, Mr Timms was a prisoner in custody under the *Corrective Services Act 2006*. His death was a 'death in custody' and an inquest was mandatory under the *Coroners Act 2003.*

10. The inquest was held at Brisbane on 7 March 2023. All statements, records of interview, medical records, photographs and materials gathered during the investigation were admitted into evidence. Counsel Assisting proceeded to submissions on the investigation material in lieu of any oral evidence.

11. The issues considered in the inquest were the findings required by s45(2) of the *Coroners Act 2003*, and whether Mr Timms had access to, and received appropriate medical care while he was in custody.

12. I am satisfied that all material necessary to make the requisite findings was placed before me at the inquest.

13. The role of a coroner is to independently investigate reportable deaths to establish, if possible, the identity of the deceased person, the medical cause of death, and how the person died, which involves a consideration of the circumstances surrounding the death. Those circumstances are limited to events sufficiently connected to the death. The purpose of a coronial investigation is to establish the facts, not to cast blame or determine criminal or civil liability. Those are matters for other courts.

The evidence

Personal History

14. Mr Timms was the third of five children. He grew up in Geelong and Leopold, Victoria. He was a chef and travelled widely before settling in Queensland.[4] Mr Timms was married, and lived with his spouse in Noosa.

15. Mr Timms had a history of chronic obstructive pulmonary disease (COPD), hyperlipidaemia, alcoholic cardiomyopathy, gout, atrial fibrillation, and osteoarthritis (OA) and was awaiting hip replacements.[5]

16. From 9 to 16 October 2019, Mr Timms was admitted to the Noosa Hospital with cellulitis and gout.

17. Mr Timms had a limited Queensland criminal history, with sporadic entries from 1980 to 2020. Mr Timms had seven convictions for contravening Domestic Violence Orders (DVO) or release conditions.

18. On 11 February 2019, in the Maroochydore Magistrates Court, he was convicted and sentenced for one charge of contravening a DVO (aggravated offence) and one charge of assault or obstruct a police officer. For the contravention he was sentenced to 18 months imprisonment, wholly suspended for 5 years, and for the assault or obstruct charge he was sentenced to 12 months' probation.

[4] Ex B1
[5] Ex D4

19. On 24 October 2019, Mr Timms was remanded in custody on a charge of assault occasioning bodily harm and contravention of a DVO. He was received into the Brisbane Correctional Centre. On 8 November 2019, he was transferred to the Woodford Correctional Centre (WCC).[6]

20. On 10 February 2020, Mr Timms was convicted and sentenced to 12 months imprisonment for a charge of assault occasioning bodily harm (DVO). He was sentenced to a cumulative term of 9 months imprisonment for contravening a DVO. Mr Timms' 18 month suspended sentence was fully invoked to run concurrently. His parole release date was set at 21 September 2020. His full-time release date was 9 May 2022.

Events Leading to the Death

21. From 28 October 2019 until 24 March 2020, Mr Timms made over forty health services requests to the Prisoner Health Services. Three of those requests were made when he was initially remanded at Brisbane Correctional Centre, and commenced within four days of reception into custody.

22. Mr Timms complaints included:

- Reviewing his medication regime x 5
- Recurring severe back pain, kidney pain, causing difficulty breathing and no pain relief overnight x 6
- Persistent cough, difficulty swallowing and throat swelling x 2
- Excess fluid in his joints x 3
- Difficulty eating, stomach cramps and reflux x 3
- Difficulty sleeping, disoriented x 4
- Anxious and nervous about court proceedings x 2
- Mouth ulcers and lower jaw inflammation x 6
- Open sores and pimples all over his body x 3
- Jock itch x 2
- Conjunctivitis x 3
- Chronic shortness of breath and consistently worse since 10/2/2020[7]

23. Mr Timms first complained of severe lower back pain on 28 October 2019. He made the same complaint six times. In February 2020, he documented in his health services requests that he was suffering shortness of breath, he was increasingly anxious and nervous about court proceedings. As a result he was struggling to sleep, and was disoriented.

24. On 17 February 2020, Mr Timms wrote, "*I am not well. You control what happens, you control my choices, and you control my outcomes*".

25. On 27 February 2020, Mr Timms wrote in his health services request, "*I am not well. I was released from Noosa Hospital in October 2019 in good health. Four and a half months later and my health is failing, physical, mental, emotional and dental.*"

[6] Ex C10 – QCS Movement History
[7] Ex E1 – Woodford CC Medical Records

26. With each health service request, Mr Timms became more frustrated with the state of his health, and the perception that little was being done to help him. His health service requests started to question whether the Correctional Centre was meeting its duty of care towards him. In one request he questioned whether the lack of action to address his mouth ulcers was "institutionalised intimidation."[8]

27. In February 2020, Mr Timms repeatedly requested a blood test. WCC medical records indicate that a blood test was taken on 28 February 2020. On 11 March 2020 another blood test was taken, and the results test were suggestive of lethargy.

28. On 28 March 2020, Mr Timms reported back pain, skin irritation, inflamed gums, persistent cough, and shortness of breath. He was admitted to the Caboolture Hospital for treatment and further tests.

29. On 29 March 2020, Mr Timms was transferred from the Caboolture Hospital to the Princess Alexandra Hospital (PAH) under the haematology team for further investigation of his abnormal blood tests, which by that stage were consistent with a diagnosis of leukaemia.

30. The haematology team organised a bone marrow aspirate test that confirmed the diagnosis of AML, which transformed from a pre-existing chronic myelomonocytic leukaemia. Mr Timms' diagnosis was terminal. The diagnosis and Mr Timms' significant medical comorbidities precluded him from receiving chemotherapy.[9]

31. AML is a rapidly progressive disease of the bone marrow in which too many immature cells from the myeloid lineage are produced. The onset of AML is usually rapid with presentation and diagnosis occurring within weeks of the onset of symptoms. AML causes myeloid cells to develop into abnormal white blood cells, red blood cells or platelets. This type of leukaemia is most common in older people.

32. The PAH palliative care team were involved with Mr Timms from 31 March 2020 to 15 April 2020. The team assisted with comfort cares, advance care planning, discussions with his legal representative, and attempted to arrange compassionate release from WCC.

33. While the palliative care team looked after Mr Timms' social welfare, he was being monitored and treated by haematologists. His treatment included regular sodium bicarbonate mouthwashes, as-required low dose opioid medication for dyspnoea (shortness of breath) and pain.

34. In Mr Timms' approach to discharge, the palliative care team involvement centred around prognostication and planning for his terminal phase. The estimated prognosis was days to weeks, with recognition of a high risk of sudden decompensation and death at any point from infection, leukostasis or acute respiratory failure.[10]

35. The palliative care team, in conjunction with the wider multidisciplinary team, recommended that, as long as Mr Timms was still incarcerated, his care should

[8] Ex E1 – Woodford CC Medical Records, p25
[9] Ex B3 – Statement of Dr Kim
[10] Ex B2 – Statement of Dr Gunawan

continue at a correctional facility until he was no longer independent. While Mr Timms' wished to return to live in Noosa this was not possible while he was a prisoner. He was advised his end of life care could be accommodated at the Caboolture, Prince Charles or Princess Alexandra Hospitals.

36. Immediately prior to his discharge, Mr Timms developed a rash consistent with potential dermal involvement of his leukaemia. He was commenced on menthol 1% aqueous cream and an oral antihistamine for symptomatic control. He was also commenced on a low dose of controlled release morphine to support his dyspnoea when returning to WCC.[11]

37. On 15 April 2020, Mr Timms was discharged back to WCC. The palliative care team provided a written plan to the WCC specifying a readmission plan to a hospital in which palliative care would be provided safely. Their recommendation was Caboolture Hospital due to Mr Timms familiarity and the proximity to WCC.[12]

Day of the Death

38. At 9.06am on 19 April 2020, Mr Timms was having difficulty breathing and a 'Code Blue' was called. Attending medical staff noted that there was a marked deterioration in his health. Nurse Practitioner Bolarinwa wrote a letter to the Caboolture Hospital Palliative Care Team, requesting that Mr Timms be admitted for comfort care under the palliative care team. Mr Timms was transferred and admitted to the Caboolture Hospital for further care.

39. At about 6:00am on 20 April 2020, Corrective Services Officer Lancaster noticed Mr Timms had stopped breathing and notified a nurse. The nurse confirmed Mr Timms had no pulse, and she advised the on-call doctor.[13] Dr Al-Hindawi examined Mr Timms and declared him life extinct at 6.05am.[14]

Exceptional Circumstances Parole

40. On 1 April 2020, the Palliative Care Team at Caboolture Hospital confirmed they would accept Mr Timms into their care when the time came for him to be transferred from WCC. At this time the prospect of exceptional circumstances parole was raised.

41. However, as Mr Timms had two outstanding remand matters, he was not eligible to apply for parole while on remand for those charges. Enquiries made by WCC revealed that Mr Timms was self-represented for those matters, which were listed for mention on 3 April 2020. The Acting Manager of Specialist Operations, Tasmin Rodgers, indicated she would contact Police Prosecutions to attempt to negotiate the charges given Mr Timms' situation.

42. On 3 April 2020, Ms Rodgers and the PAH arranged for the social worker to speak with Legal Aid Queensland (LAQ) to enter a plea of guilty to the outstanding charges so Mr Timms could be considered for parole.[15] Ms Rodgers and staff at

[11] Ex B2 - Statement of Dr Gunawan
[12] Ex B2 – Statement of Dr Gunawan
[13] Ex B4 – Statement of V. Lancaster
[14] Ex A4 – Life extinct certificate
[15] Ex C15 – Parole email trail 1 April 2020 to 17 April 2020

the PAH also facilitated the paperwork for Mr Timms to apply for exceptional circumstances parole and made the application on his behalf.[16]

43. Mr Timms nominated his parole address as the home he had shared with his spouse. He noted on his application that his relationship was 'divorced'. As a result of his sentence on 10 February 2020, a Domestic Violence Protection Order was made by the court. One of the conditions included that he was not enter or attempt to enter, or approach within 100 metres of where his spouse lived. The Parole Board made enquiries with Mr Timm's spouse, and his parole application was not granted at this time as the nominated address was considered unsuitable.

44. On 6 April 2020, Mr Timms nominated friends he believed would willing to accommodate him if he was released. In the interests of time, Ms Rodgers requested Probation and Parole email her the letter to those friends, advising of Mr Timms' application. She would hand deliver the letter to them.

45. On 9 April 2020, LAQ were going to represent Mr Timms on a bail application for his outstanding charges. The social worker's notes indicate that Mr Timms was agitated and unwilling to listen to any explanation around the purpose of the bail application. He refused to sign the client instructions for bail as he did not agree with the wording of the application. Mr Timms told the social worker, "*I will just die in jail in handcuffs, I don't care.*"[17] The bail application was subsequently abandoned, and the outstanding charges were listed for sentence on 20 April 2020, the day of Mr Timms' death.

Autopsy results

46. An external post-mortem examination was performed by Dr Beng Ong at Queensland Health Forensic and Scientific Services on 22 April 2020.

47. The external examination showed prominent oedema on Mr Timms' legs and feet. There were no signs of medical therapy in keeping with palliative treatment. The CT scan showed enlarged abdominal lymph nodes in keeping with his known diagnosis of leukaemia. The heart was enlarged due to known dilated cardiomyopathy. There was scattered opacity of the lungs, likely representative of pneumonia.

48. Dr Ong noted that Mr Timms was known to have advanced acute myeloid leukaemia which he eventually succumbed to. The external post-mortem examination and CT scan was in keeping with this diagnosis. Consequently, the case of death was given as:

    1a. Acute myeloid leukaemia, *due to, or as a consequence of*
    1b. Transformation from chronic myelomonocytic leukaemia

    Other significant conditions
    2. Pneumonia and alcoholic cardiomyopathy.

[16] Ex C13 – Application for parole
[17] Ex D2 – PAH – DH INPT, p83

CFMU review

49. Dr Gary Hall of the CFMU provided a comprehensive summary of Mr Timms' medical records from Noosa Hospital, WCC, the PAH, and Caboolture Hospital.

50. Dr Hall identified that Mr Timms made over forty complaints to prison staff regarding health issues between October 2019 and 24 March 2020, with half of these complaints being prior to January 2020. Dr Hall considered that none of the complaints prior to January 2020 could be regarded as being symptoms heralding acute myeloid leukaemia (AML) or a precursor illness.

51. Dr Hall thought Mr Timms' complaint of a nosebleed and bleeding skin lesions on 4 February 2020 may have been a symptom relating to AML. At this time, Mr Timms' was also preoccupied with his approaching court matters which affected his sleep, which was his priority when requesting medical review. Dr Hall considered Mr Timms' escalating complaints of mouth ulcers in early February 2020 could not be regarded as being significant to the early diagnosis of AML.

52. By 19 February 2020, Mr Timms had requested blood testing. The visiting medical officer ordered this, but it did not take place for nine days. Dr Hall's opinion was that this delay was poor practice where investigation of an infection is concerned. When the blood test was performed, the result indicated a haematological disorder – possibly malignant given the raised white cell count. The results did not appear to be reviewed by someone until at least four days later. This amounted to two weeks after the onset of infection that triggered the blood test.

53. Dr Hall also identified that the haematology referrals were not appropriately actioned. The issue was the delay in reviewing the blood tests and, more significantly, the lack of further blood testing/monitoring and appropriate verbal/telephonic discussion with a haematologist once those results were known. However, the records produced by Woodford Corrections Health indicate that further blood tests were undertaken on 11 March 2020.[18]

54. Dr Hall thought the lack of appropriate action and monitoring was not acceptable, and fell below the standard one would expect in a GP setting.[19] Dr Hall formed the view that these issues "potentially denied Mr Timms the opportunity to receive treatment that might have allowed him to undergo remission, or at least prolong his life". However, he could not state with any degree of certainty whether, had the opportunity been available to him, treatment might have been curative, or the outcome changed in the short term given the aggressive nature of the disease in general and his disease in particular.

55. Dr Hall had no concerns regarding the management of Mr Timm's at the PAH or the Caboolture Hospital. Mr Timms was appropriately referred, and his presenting condition and comorbidities appropriately assessed. There were no issues with his care at the WCC in his final days and his referral back to the Caboolture Hospital was appropriate. The care given and communication between Caboolture Hospital and his family was considerate.

[18] Ex B6
[19] CFMU Review, p15

56. A response to Dr Hall's report was provided by Dr Chng, Visiting Medical Officer at WCC.[20] Dr Chng noted that Mr Timms had made a complaint to the Office of the Health Ombudsman on 26 February 2020 about lack of medical attention at WCC. He complained he had shortness of breath, cracked fillings and running sores.

57. Dr Chng's response to OHO noted that Mr Timms submitted a medical request form on 1 February 2020. He was seen by a VMO on 19 February 2020 and had a blood test on 28 February 2020. He was also seen by a dentist on 11 March 2020. OHO subsequently took no further action on Mr Timms' complaint.

58. Dr Chng noted that WCC has approximately 1400 inmates. He said that the fact Mr Timms was seen within 18 days from the date he submitted his medical request form dated 17 February 2020 was reasonably efficient. He referred to the Queensland Health benchmark under which an outpatient on a wait list to see a specialist is recommended to see a specialist within 30 days only if triaged as Urgent (Category 1).

59. Dr Chng also noted there were particular requirements in place at WCC in relation to getting protection prisoners such as Mr Timms to the medical centre. This included restricting access by others to the medical centre and limited how many protection prisoners could be seen.

60. Dr Chng said that after Mr Timms complained of multiple infected skin lesions and asked for a blood test on 19 February 2020 the VMO ordered blood tests, together with other clinical investigations on that date. He was also commenced on oral antibiotics. He was then referred to a haematology outpatients clinic for an opinion on 4 and 11 March 2020, and for further radiology on 4 March 2020.

Conclusions

61. After considering the evidence gathered in the coronial investigation, I am satisfied that Mr Timms died from natural causes. I find that none of the inmates, correctional or health care staff at WCC caused or contributed to his death. There were no suspicious circumstances.

62. An accepted principle that the health care provided to prisoners should not be of a lesser standard than that provided to other members of the community. The inquest considered the adequacy of the health care provided to Mr Timms when measured against this benchmark.

63. Dr Hall identified several shortfalls in the care afforded to Mr Timms after he first asked for blood testing. His conclusions were influenced in part by the fact that he was not aware that further blood tests had been carried out on 11 March 2020. In those circumstances, his conclusion that "*there was a lost opportunity to push for more urgent haematological review before 29 March 2020*" was not supported by the evidence.

64. I accept the evidence of Dr Chng that Mr Timms' abnormal blood tests were reviewed in a timely manner and led to a referral for specialist haematology review and further investigations.

[20] Ex B6

65. The period between Mr Timms' first request for blood tests and when he was diagnosed with AML was 39 days, a period of about five and a half weeks. Dr Hall was concerned that earlier diagnosis might have given Mr Timms the opportunity to receive treatment that might have allowed him to undergo remission, or at least prolong his life.

66. However, Dr Hall also explained that AML was aggressive and was equivocal about whether an earlier diagnosis would have been outcome changing. Mr Timms was a frail patient and was not amenable to treatment based on the assessments carried out at the PAH. Studies referred to in Dr Hall's report indicated that 57% of patients with Mr Timms' profile died within 30 days.[21] Dr Hall considered that the decision not to offer invasive chemotherapy and to involve palliative care input at an early stage was appropriate management supported by current literature and international evidence base.

67. The primary goal of treatment for frail patients such as Mr Timms is supportive care and symptom relief to improve quality of life. As Dr Hall noted, "*even with appropriate early treatment, there would be no guarantees of cure, prolonged quality of life or significantly reduced morbidity*".

68. Dr Chng agreed that Mr Timms' disease was very aggressive and extremely poor in prognosis. I accept that given his age and multiple co-morbidities earlier treatment would not have altered the course of the disease or the outcome for Mr Timms.

69. Mr Timms' family were concerned that QCS returned him to the prison from the PAH. It is clear that staff at WCC, PAH and Legal Aid Queensland made attempts to have Mr Timms released on exceptional circumstances parole. When it was identified by the Parole Board that he had outstanding criminal charges precluding him from parole, all attempts were made to expedite those matters by way of a bail application or guilty plea.

70. Staff at WCC, PAH and Caboolture Hospital recognised Mr Timms' prognosis was aggressive and made these attempts while he was an inpatient at the PAH. His wish to return to Noosa for palliative care could not be achieved in the circumstances and it was necessary to return him to WCC while he was capable of mobilising.

71. Dr Chng advised that protection prisoners at WCC are now seen on two days each week to ensure that urgent medical requests are dealt with in a timely manner.

72. I am satisfied that there are no comments or recommendations to which would assist in preventing similar deaths in future, or that otherwise relate to public health or safety or the administration of justice.

[21] Eastern Cooperative Oncology Group score of 3 and Charlson Comorbidity Index score of 6.

Findings required by s. 45

73. The *Coroners Act 2003* requires me to find, as far as is possible, the medical cause of death, who the deceased person was and when, where and how he came by his death. After considering all of the evidence, including the material contained in the exhibits, I make the following findings.

Identity of the deceased – Peter John Timms

How he died – Mr Timms was a 71 year old man with a medical history that included chronic obstructive pulmonary disease, atrial fibrillation, osteoarthritis, alcoholic cardiomyopathy, splenectomy, hypertension and gout. He was sentenced to a term of imprisonment in October 2019. He was diagnosed with acute myeloid leukaemia on 29 March 2020 after a short period of rapidly deteriorating health commencing in January 2020.

He was admitted to the Princess Alexandra Hospital and then returned to the Woodford Correctional Centre as he was not eligible for parole. His condition deteriorated quickly, and he died after being transferred to the Caboolture Hospital from the prison.

Place of death – Caboolture Hospital McKean Street CABOOLTURE QLD 4510 AUSTRALIA

Date of death– 20 April 2020

Cause of death – 1a. Acute myeloid leukaemia, *due to, or as a consequence of*
1b. Transformation from chronic myelomonocytic leukaemia

Other significant conditions
2. Pneumonia and alcoholic cardiomyopathy.

74. I extend my condolences to Mr Timms' family.

75. I close the inquest.

Terry Ryan
State Coroner
BRISBANE