



# CORONERS COURT OF QUEENSLAND

## FINDINGS OF INQUEST

CITATION: **Inquest into the death of Thomas Edward Schwartz**

TITLE OF COURT: Coroners Court of Queensland

JURISDICTION: BRISBANE

FILE NO: 2021/5848

DELIVERED ON: 17 August 2023

DELIVERED AT: Brisbane

HEARING DATE: 17 August 2023

FINDINGS OF: Stephanie Gallagher, Deputy State Coroner

CATCHWORDS: Coroners: inquest, death in custody, natural causes

### REPRESENTATION:

Counsel Assisting: Ms N Macregeorgos

Metro South Hospital  
and Health Service: Mr S Shepherd

West Moreton Hospital  
and Health Service: Ms P Fairlie

Queensland Corrective  
Services: Ms A Vail

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## Introduction

1. Thomas Edward Schwartz was sixty-four years of age when he passed away in Ward 4E at the Princess Alexandra Hospital (**PAH**) in the late evening of 26 December 2021. Mr Schwartz had been transferred from the Wolston Correctional Centre (**WCC**), where he was serving a term of imprisonment for sexual offences against children, to the PAH on 4 December 2021. Mr Schwartz died of natural causes as a result end of stage liver disease due to Hepatitis C and non-alcoholic fatty liver disease.

## The investigation

2. The investigation into Mr Schwartz's death was led by Detective Sergeant John Saunders of the Corrective Services Investigation Unit (**CSIU**).
3. After being notified of the passing, Senior Constable Steven Peake attended Ward 4E at the PAH, together with a Scenes of Crime officer. Police observed Mr Schwartz to have a syringe driver with tubing connected to an infusion site in his left arm and several bruises apparent on his arms where attempts were made to insert cannulas. Mr Schwartz also had two infusion pumps connected to his groin area, all appearing consistent with routine medical care.
4. A direction for a targeted coronial investigation was issued by the State Coroner on 29 December 2021. This direction included seeking medical records, interviewing the next of kin about any concerns, and obtaining statements from relevant medical staff and Custodial Corrections Officers (**CCOs**). A Coronial Investigation Report was prepared and provided to the Coroners Court in March 2023.
5. D/Sgt Saunders conducted a thorough investigation in response to the targeted investigation. He concluded that there were no suspicious circumstances surrounding Mr Schwartz's passing, and he was provided with appropriate care and treatment while incarcerated. D/Sgt Saunders also concluded that the death was not preventable.

## The inquest

6. At the time of his death, Mr Schwartz was a prisoner in custody pursuant to the *Corrective Services Act 2006* (Qld). His death was a 'death in custody' and an inquest was mandatory under the *Coroners Act 2003* (Qld).
7. The inquest was held at Brisbane on 17 August 2023. All statements, records of interview, medical records, photographs and materials gathered during the investigation were admitted into evidence. No witnesses were called to give oral evidence. Counsel Assisting proceeded to submissions on the investigation material in lieu of any oral evidence.
8. The issues considered at the inquest were the issues required by s 45(2) of the *Coroners Act 2003* (Qld), and whether Mr Schwartz had access to, and received appropriate medical care, while he was in custody.
9. I am satisfied that all material necessary to make the requisite findings was placed before me at the inquest.

10. The role of the coroner is to independently investigate reportable deaths to establish, if possible, the identity of the deceased, the medical cause of death, and the circumstances surrounding the death – how the person died. Those circumstances are limited to events which are 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**

### **Social and Medical History**

11. Mr Schwartz was born on 13 October 1957 in Brisbane, Queensland. He was the second eldest of seven children and grew up on a large property in Capalaba. Mr Schwartz struggled with his schooling due to some learning difficulties and dyslexia. As a result, he attended a special school in Cleveland however left formal schooling around fifteen years old.
12. During the investigation, Mr Schwartz's sister provided a statement about her brother. She said that as a teenager, Mr Schwartz "ran with a bit of a wild crowd"<sup>1</sup> and later became involved with the Vagabonds motorcycle club. His criminal history commenced in 1976 as an eighteen-year-old, having been sentenced to three years' probation for breaking and entering. No conviction was recorded.
13. Mr Schwartz's first job was as an apprentice small goods maker, however he was eventually made redundant. Mr Schwartz went on to work as a bagger in a grocery store, where he would assist in taking customer's groceries to their car. He left this job upon receipt of an offer to work at a flour mill.
14. Between 1980 and 1985, Mr Schwartz was convicted of various stealing and property offences, as well as offences related to receiving, possession of stolen property and the possession of a prohibited plant. Mr Schwartz received a head sentence of three months' imprisonment on 6 December 1984.
15. In or around 1985, Mr Schwartz moved to South Australia to "get away"<sup>2</sup> from Queensland and his former associates after an altercation where they allegedly attempted to have him killed. He stayed in South Australia for approximately three years until he moved back to Queensland, where he worked with his brothers at Ampol doing twelve-hour shifts per day.
16. Sometime after his return to Queensland, his former associates reconnected with Mr Schwartz and he began associating with them again.
17. Mr Schwartz's offending recommenced in 1994 and continued intermittently between 1995 and 2000 when he was convicted of a number of offences, including assault occasioning bodily harm. Between 2006 and 2015, Mr Schwartz's offending had escalated and he was convicted of various drug and weapon offences, the most significant resulting in his incarceration for six months as a result of possessing dangerous drugs.

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<sup>1</sup> Exhibit B4 – Statement of Fay Wilkerson, p 1.

<sup>2</sup> Exhibit B4 – Statement of Fay Wilkerson, p 2.

18. In 2009, Mr Schwartz was diagnosed with Hepatitis C infection. His medical records record that he had not sought treatment for the infection due to his depression and lack of finances.
19. On 12 February and 27 April 2016, Mr Schwartz plead guilty to the following offences in relation to three separate complainants:
  - a. two counts of indecent treatment of a child under twelve who was in Mr Schwartz's care;
  - b. six counts of indecent treatment of a child under twelve;
  - c. one count of attempting indecent treatment of a child under twelve; and
  - d. four counts of indecent treatment of a child under sixteen.
20. These offences occurred when the complainants were aged four, five and seven years respectively.
21. In relation to the fourth complainant, Mr Schwartz was found guilty of maintaining an unlawful relationship with a child (domestic violence offence) and rape. These offences occurred when the complainant was between nine and ten years of age.<sup>3</sup> Mr Schwartz received a head sentence of nine years imprisonment in relation to the fourth complainant.
22. With regards to the counts outlined in paragraph 19 above, Mr Schwartz received lesser concurrent sentences ranging from two to three years imprisonment. Mr Schwartz's parole eligibility date was recorded as 25 June 2020, with a custodial end date of 24 December 2024.
23. On 28 March 2017, Mr Schwartz was unsuccessful in his appeal against conviction, and his application for leave to appeal his sentence was refused.<sup>4</sup>
24. Whilst incarcerated at the WCC, Mr Schwartz was treated for a number of medical issues, including:
  - a. Child-Pugh B Liver Cirrhosis;
  - b. Hepatitis C;
  - c. Non-alcoholic Steatohepatitis;
  - d. Type II Diabetes;
  - e. Recurring ear infections as a result of bilateral perforated eardrums resulting in a right middle cranial fossa craniotomy;
  - f. Obesity;
  - g. Depression;
  - h. Dyslipidaemia;
  - i. Vitamin D deficiency; and
  - j. Gastroesophageal Reflux Disease.
25. He was also prescribed the following medications prior to his death:
  - a. Atorvastatin for cholesterol;
  - b. Vitamin D as a supplement;
  - c. Lactulose to prevent encephalopathy;
  - d. Pantoprazole for reflux;
  - e. Paroxetine for mood;

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<sup>3</sup> Sentencing Remarks, p 4.

<sup>4</sup> Queensland Criminal History, pp 5 – 6.

- f. Rifaximin to prevent encephalopathy;
  - g. Magnesium as a supplement;
  - h. Frusemide for excess fluid;
  - i. Spironolactone for excess fluid;
  - j. Optisulin for diabetes;
  - k. Novorapid for diabetes;
  - l. Movicol as required for constipation;
  - m. Metoclopramide as required for nausea; and
  - n. Paracetamol as required (and no more than 2g in 24 hours) for analgesia.
26. Mr Schwartz also had a history of intravenous drug use, as well as history of smoking.
27. Throughout his time at the WCC, Mr Schwartz was regularly reviewed and managed by Dr Graeme Macdonald, Gastroenterologist and Senior Staff Specialist in the Department of Gastroenterology and Hepatology at the PAH. From July 2017 onwards, Mr Schwartz had frequent admissions to the PAH due to complications arising from his severe liver disease, including cellulitis, fluid overload and hepatic encephalopathy. He would also, at times, suffer from episodes of confusion related to the accumulation of toxins in his system. Mr Schwartz also frequently underwent gastroscopies due to enlarged oesophageal varices that were treated with banding, and was also receiving frequent dietician support.
28. On 5 August 2019, Mr Schwartz was advised that his liver disease was of such severity that Dr Macdonald anticipated he only had one to two years to live, potentially less, if he were to have another major complication such as a serious infection. Given this, Dr Macdonald wrote to the Parole Board of Queensland (**PBQ**) in support of Mr Schwartz's parole application, noting the difficulties of managing his liver disease in prison.
29. On 8 May 2020, Mr Schwartz made an application for Exceptional Circumstances Parole (**ECP**) to the PBQ. In their correspondence dated 30 June 2020, the PBQ indicated that their preliminary view was that Mr Schwartz's application did not meet the threshold of exceptional circumstances, namely because he had not submitted any grounds within his application for the PBQ to consider. Mr Schwartz was invited to provide further written submissions and/or documentation within fourteen days of receipt of the letter.
30. On 14 July 2020, the PBQ considered Mr Schwartz's application for parole and deemed the address provided to them as suitable for the purposes of release. However, the PBQ decided to defer its decision until the receipt of a psychological risk assessment.
31. On 17 August 2020, the PBQ reconvened to consider Mr Schwartz's ECP application. As he had not provided any further written submissions or new information, the PBQ confirmed their preliminary decision and determined that no exceptional circumstances were identified which would warrant his release at that time.
32. On 8 September 2020, the PBQ considered Mr Schwartz's parole application and on 15 October 2020 wrote to him to advise that they had formed a preliminary view that his application should be declined. The PBQ was of the view that the risk level presented to the community was unacceptably high due to the following factors:

- a. He met the diagnostic criteria Paedophilic Disorder, despite him denying the offending. His self-report was not considered credible;
  - b. Risk management strategies were impaired by the fact that he had not completed the recommended sex-offender treatment program, and he had no plans to engage in psychological treatment in the community;
  - c. He had been recommended to participate in the Medium Intensity Sexual Offending Program (**MISOP**), however, as Mr Schwartz maintained his innocence, it precluded him from participating in the program.
33. Mr Schwartz was invited to provide further written submissions and/or documentation within fourteen days of receipt of the letter.
  34. On 10 December 2020, the PBQ wrote to Mr Schwartz after convening on 1 December 2020 where they considered his application for parole and additional documents provided, namely his New Future Plan and Relapse Prevention Plan. Despite the factors in his favour, the PBQ formed the view that his application should be declined as their concerns had not been sufficiently allayed and he posed an unacceptable risk to the safety of the community.
  35. In 2021, Mr Schwartz's condition continued to deteriorate. Discussions had commenced in late 2020 between the Prisoner Health Service (**PHS**) and the Office of Prisoner Health and Wellbeing (**OPHWB**) in relation to the PBQ prioritising a small number of parole applications for prisoners approaching end-of-life. The names of prisoners in these circumstances were provided in January 2021 and again in May 2021 to the PBQ. Mr Schwartz was included in the list on each occasion.
  36. On 5 May 2021, Dr Crystal Pidgeon, the then Clinical Director of the PHS, received an email from the PBQ outlining that Mr Schwartz had previously applied for ECP but was refused in 2020. Dr Pidgeon was advised that Mr Schwartz had not re-applied for ECP.
  37. Dr Pidgeon discussed a further ECP application with Mr Schwartz on 6 May 2021, after a further admission to the PAH. She advised him that it was likely that he would be in and out of hospital and that she was supportive of him applying. On this occasion, Dr Pidgeon also discussed an Advanced Health Directive with Mr Schwartz, however he maintained that he wanted full resuscitation, despite acknowledging that the outcome may be poor.
  38. On 24 May 2021, an Aged Care Assessment Team (**ACAT**) assessment was sought to inform whether Mr Schwartz could be placed in aged care, if deemed acceptable by the PBQ.
  39. On the same date, the PBQ considered Mr Schwartz's further application for ECP and deferred making a decision until additional information was received from Queensland Health.
  40. On 31 May 2021, the West Moreton Hospital and Health Service (**WMHHS**) received correspondence from the PBQ requesting a medical report to assist in determining Mr Schwartz's ECP application. The PBQ also requested that the WMHHS provide information as to the ability of PHS to manage Mr Schwartz's condition whilst he was incarcerated.

41. On 2 June 2021, Dr Pidgeon provided a response to the PBQ. In her correspondence, Dr Pidgeon noted that, “Mr Schwartz was at high risk of sudden deterioration and that PHS are not able to adequately meet his care needs in custody”.<sup>5</sup> Dr Nadeen Siddiqui, current Clinical Director of the PHS, opined that this was also evidenced by Mr Schwartz’s frequent hospital admissions.
42. On 15 June 2021, Mr Schwartz was reviewed by Dr Pidgeon. Mr Schwartz presented as mildly jaundiced and his pathology results indicated an increase in his bilirubin levels, which had already been elevated for a period of time. Given the difficulty accessing his veins, a decision was made to cease weekly pathology tests as it was “unlikely to change his clinical management unless there was a change in his clinical condition”.<sup>6</sup> Dr Pidgeon planned to continue with weekly reviews of Mr Schwartz. In relation to his future living arrangements, Mr Schwartz indicated that he would prefer to live with his sister as opposed to going to a nursing home.
43. On 5 July 2021, the PBQ granted Mr Schwartz’s ECP application “subject to a suitable accommodation review for a Queensland Health Palliative Care Facility as approved by [his] treating specialist (and subject to bed/travel if required) and not before 19 July 2021 and not on a Friday”.<sup>7</sup>
44. However, it was noted that these facilities were only available to those patients in their last weeks of their lives, and Dr Pidgeon was of the view that Mr Schwartz, whilst palliative, was not suitable for placement in a palliative care facility at that time. As such, alternative accommodation was to be considered.
45. On 7 July 2021, a Clinical Nurse Consultant at WCC requested that Queensland Corrective Services (**QCS**) contact the PBQ in relation to the possibility of Mr Schwartz living with his sister. A representative of the PBQ phoned the clinic at WCC on 8 July 2021 requesting further information, and advised that they would advise the Chair of Mr Schwartz’s care and inform the prison in due course.
46. On 19 July 2021, the PBQ considered Mr Schwartz’s Accommodation Review and deemed the proposed accommodation at 104 Arbornine Road, Glenwood to be unsuitable for the purposes of parole as his sister was unable to support him at this address. Accordingly, the PBQ revoked its decision made on 5 July 2021. Further correspondence was sent by the PBQ on 20 July 2021 outlining their preliminary view that his application did not meet the threshold for exceptional circumstances, given the information from Dr Pidgeon that Mr Schwartz was not suitable to enter a palliative care facility at that time. Mr Schwartz was again invited to provide further written submissions and/or documents within fourteen days of receipt of the letter.
47. On 27 August 2021, Mr Schwartz was reviewed by Dr Pidgeon following a further admission at the PAH. They discussed at length Mr Schwartz’s parole and he insisted that he wanted to live alone in his shack with Blue Care support. Mr Schwartz stated that he was not able to live on his sister’s property due to his parole conditions and further, he did not want to consider going to a nursing home in Gympie.

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<sup>5</sup> Exhibit B3 – Statement of Dr Nadeen Siddiqui, para 23.

<sup>6</sup> Exhibit B3 – Statement of Dr Nadeen Siddiqui, para 25; Exhibit C13 – Prisoner Health Records, Volume 6, p 67.

<sup>7</sup> Exhibit D2 – Queensland Corrective Services Offender File, Volume 2, pp 166 – 168; Exhibit B3 – Statement of Dr Nadeen Siddiqui, para 27.



48. On 2 September 2021, Mr Schwartz conceded that he needed care and was agreeable to living in a nursing home. As a result, he was referred for an ACAT assessment and nursing homes in Gympie were contacted. A bed was found at Japara Gympie Views, however this was not a Queensland Health-run facility and by the following day, there were no vacancies. The ACAT assessment was completed on 7 September 2021.
49. On 15 September 2021, QCS Sentence Management classified Mr Schwartz as "high risk". It is noted that this risk level was maintained by Mr Schwartz during the entirety of his incarceration. By this stage, Mr Schwartz had a productive cough, reduced energy and would sleep most of the day; he was reviewed weekly by a medical officer, his blood pressure and weight observations were taken daily and Palliative Care Outcomes Collaborative (**PCOC**) scores were being used to monitor his symptoms. Dr Pidgeon noted that she would need to discuss Mr Schwartz's case with the OPHWB.
50. By October 2021, Mr Schwartz had been hospitalised a total of eight times as a consequence of the progression of his liver disease. Dr James Thomas, Consultant Gastroenterologist and Hepatologist, recommended that Mr Schwartz would benefit from palliative care input as his expected survival was measured in months.
51. Dr Pidgeon reviewed Mr Schwartz on 22 October 2021 and observed that he looked more frail, displayed a tremor at rest and displayed a low mood. Dr Pidgeon noted that she had contacted the OPHW to see whether they could communicate with the PBQ.
52. On 1 November 2021, a further application for parole was submitted to the PBQ.
53. On 11 November 2021, the PBQ wrote to Mr Schwartz confirming that they had considered ECP application on 8 November 2021. The PBQ noted that no further submissions or new information was received, and accordingly, reaffirmed the concerns previously raised. Accordingly, the PBQ formed the view that no exceptional circumstances were identified.
54. Mr Schwartz was admitted to the PAH from 23 November 2021 to 1 December 2021 for further assessment after presenting with an increase in weight, abdominal distention and a general decline in health. He was treated for fluid overload and hyponatraemia and prior to his discharge, Mr Schwartz's diuretic medication was reduced. During this admission, an Acute Resuscitation Plan (**ARP**) was discussed with Mr Schwartz and he made the decision that if an acute deterioration or critical event occurred, that he was not to be provided resuscitation, defibrillation, intubation or intensive care, but rather ward based symptomatic care only.

### **Circumstances of the death**

55. At 6:40am on 4 December 2021, a Code Blue was called as Mr Schwartz complained of abdominal discomfort and shortness of breath that had commenced early in the morning. Mr Schwartz was transferred to the PAH Emergency Department where it was assessed that he had increased fluid overload and worsening ascites. Mr Schwartz's fluid overload was cautiously managed and monitored, and his ascites were managed by draining approximately seven litres of fluid from his abdomen.

56. On 6 December 2021, Mr Schwartz developed his first onset seizure. As part of the management of Mr Schwartz's seizure activity, the neurology team at the PAH were consulted and reviewed Mr Schwartz on a number of occasions. He was prescribed oxazepam and an ongoing increase of levetiracetam during his admission. Mr Schwartz's liver failure had reached end-stage and was hindering his body in the processing of anti-seizure medications. It was assessed that "there was limited alternative or additional options for treatment".<sup>8</sup>
57. Given Mr Schwartz's altered level of consciousness, on 10 December 2021, the gastroenterology team consulted with Ms Wilkerson in relation to her brother's prognosis and a decision was made to stop active care and only continue with comfort measures. Mr Schwartz's ARP was updated and the palliative care team consulted.
58. By 17 December 2021, Mr Schwartz had shown some improvement in relation to seizure control.
59. On the same date, the PBQ considered Mr Schwartz's application for parole and deemed the proposed community accommodation at Gympie Views Nursing Home as unsuitable as, "given your index offending, you are not accepted by the residence".<sup>9</sup> However, the PBQ was minded to grant Mr Schwartz's release on parole subject to a suitable accommodation review and not before 4 January 2022 and not on a Friday.
60. Mr Schwartz's confusion and delirium had increased by 21 December 2021 and his overall clinical presentation had deteriorated. He was presenting as distressed and "had had enough".<sup>10</sup> As a result, Mr Schwartz commenced on a continuous subcutaneous infusion of haloperidol and hydromorphone.
61. On 22 December 2022, it was assessed that Mr Schwartz had entered the terminal phase of his illness. He was given palliative treatment as he continued to decline.
62. At 8:57pm on 26 December 2021, Mr Schwartz was declared deceased.

## Autopsy results

63. On 30 December 2021, Dr Nathan Milne conducted an autopsy consisting of an external examination of the body, a full CT scan and a review of Mr Schwartz's medical records. The CT scan showed evidence of his end stage liver disease, as well as:
  - a. *Obesity;*
  - b. *Fluid in the trachea and main bronchi;*
  - c. *Pulmonary oedema;*
  - d. *Pleural effusions;*
  - e. *Focal coronary artery calcification;*
  - f. *Ascites;*
  - g. *Cirrhosis; and*
  - h. *Splenomegaly.*<sup>11</sup>

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<sup>8</sup> Exhibit B1 – Statement of Dr Yur-Sheng Chang, para 24.

<sup>9</sup> IOMS – Offender Details – Attachments – File Name: b363416e-d3fa-4724-a851-ec026f4fe0d1.

<sup>10</sup> Exhibit C4 – Princess Alexandra Hospital Medical Records, p 467.

<sup>11</sup> Exhibit A4 – Autopsy Report, p 5.

64. Dr Milne concluded that:

*In my opinion, the cause of death is end stage liver disease. This was clinically considered to be the result of both previous hepatitis C virus infection and non-alcoholic fatty liver disease.<sup>12</sup>*

## Conclusions

65. After considering the material gathered in the coronial investigation, I am satisfied that Mr Schwartz died from natural causes. I find that none of the inmates, correctional or health care staff at the PAH or the WCC caused or contributed to his death. There were no suspicious circumstances.
66. It is 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. Mr Schwartz had been regularly admitted to the PAH and reviewed by medical staff over the last two years of his life and, apart from their recognition of the limited treatment resources available to him, those staff did not raise concerns about his treatment and care in the WCC. Mr Schwartz's next of kin, Ms Wilkerson did not raise any concerns in relation to her brother's medical treatment and care, stating that, "As far as I know everything was done that could be done for Thomas".<sup>13</sup> There is no evidence that the care afforded to Mr Schwartz by clinical staff at Metro South Hospital and Health Service or West Moreton Hospital and Health Service was other than appropriate.
67. The primary issue for consideration was whether Mr Schwartz had access to, and received, appropriate medical treatment while he was incarcerated. From the medical records and the statements provided, I am satisfied that Mr Schwartz received regular, timely and appropriate medical care.
68. Due to the complexity of his conditions, he was managed by specialist teams at the PAH with regular reviews by nursing and medical staff at the WCC. His passing was expected and managed according to his ARP.

## Findings required by s. 45

69. I am required to find, as far as possible, the medical cause of death, who the deceased person was and when, where and how he came to his death. After considering all of the evidence, including the material contained in the exhibits, I am able to make the following findings:

**Identity of the deceased** – Thomas Edward Schwartz

**How he died** –

Mr Schwartz died as a result of end stage liver disease. This was clinically considered to be the result of both previous Hepatitis C infection and non-alcoholic fatty liver disease.

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<sup>12</sup> Exhibit A4 – Autopsy Report, p 5.

<sup>13</sup> Exhibit B4 – Statement of Fay Wilkerson, p 3.

**Place of death –** Princess Alexandra Hospital Ipswich Road  
WOOLLOONGABBA QLD 4102 AUSTRALIA

**Date of death–** 26 December 2021

**Cause of death –**

- 1(a) End stage liver disease, *due to, or as a consequence of*
- 1(b) Hepatitis C and non-alcoholic fatty liver disease.

## **Comments and recommendations**

- 70. Section 46 of the *Coroners Act 2003* enables a coroner to comment on anything connected with a death that relates to public health or safety, the administration of justice or ways to prevent deaths from happening in similar circumstances in the future.
- 71. In the circumstances, I accept that there are no comments or recommendations to be made that would assist in preventing similar deaths in future, or that otherwise relate to public health or safety or the administration of justice.
- 72. I close the inquest.

Stephanie Gallagher  
Deputy State Coroner  
BRISBANE