CORONERS COURT
OF NEW SOUTH WALES

Inquest:	Inquest into the death of Marcia Clark
Hearing dates:	12 April 2018
Date of findings:	30 May 2018
Place of findings:	NSW State Coroner's Court, Glebe
Findings of:	**Deputy State Coroner, Magistrate Teresa O'Sullivan**
Catchwords:	CORONIAL LAW – Cause and manner of death Elder abuse and neglect Geriatric medicine
File number:	2014/216538
Representation:	Ms Donna Ward, Counsel Assisting, instructed by Mr James Herrington, Crown Solicitor's Office Mr Lynch, instructed by Mr Ethan Phipps of Avant Law, for Dr Doan

Findings:	**Identity of deceased**: The deceased person was Marcia Clark. **Date of death**: She died on 20 July 2014. **Place of death**: She died at Manning Base Hospital Taree, NSW. **Manner of death:** Marcia Clark died from natural causes after a period of being neglected by her carer. **Cause of death:** The death was caused by the combined effects of severe malnutrition and infection.

Table of Contents

The Coroners Act 2009 (NSW) *in s81 (1) requires that when an inquest is held, the coroner must record in writing his or her findings as to various aspects of the death.*

These are the findings of an inquest into the death of Marcia Clark.

Introduction

1. This was the inquest into the death of Marcia Helena Clark. Mrs Clark was 83 years old when she died on 20 July 2014 at Manning Base Hospital in Taree. The report of an autopsy carried out by forensic pathologist, Dr Brian Beer, on 25 July 2014, found that Mrs Clark's death was caused by the combined effects of severe malnutrition and infection.

The Inquest

2. Ordinarily, the death of an 83 year old woman in a New South Wales public hospital might not lead to a coronial investigation, given that the date, place and cause of death are known and given her age. This inquest was concerned to inquire into the manner of Mrs Clarke's death and in particular, the adequacy of the care she received in her home in the weeks and months prior to her hospital admission commencing on 17 July 2014, three days before she died.

The Evidence

3. The evidence before this inquest demonstrated that when ambulance officers attended Mrs Clark's home on 17 July they found her in what may fairly be described as a terrible state. The house was dirty, unkempt and smelt badly but more importantly, when they entered Mrs Clark's bedroom the paramedics were assaulted by the smell. They found Mrs Clark to be emaciated; her skin and tongue dry, lying on a dirty bed wet with urine and faeces that the paramedics concluded had accumulated over a number of days. [1]

4. When Mrs Clark was bought by ambulance to Taree Base Hospital she was in pain. She wasn't able to speak coherently, she was stiff and moaning when moved from the stretcher to the bed, her left leg appeared deformed and she was found to be malnourished and dehydrated.[2] She had muscle wastage and multiple joint contractures.[3]

5. The source of Mrs Clark's pain though, was probably due to more than just the combined effect of these presenting symptoms, significant though they were. Mrs Clark was also observed to have pressure sores on her thoracic region (midline of her back), over her right thigh and hip and even on her

[1] [Tab 13.7] Coronial brief of evidence
[2] [Tab 10]
[3] [Tab 15]

ears.[4] But most significantly, she had a pressure sore on the sacral area of her lower back which the attending doctor thought had most likely infected the underlying bone.[5]

6. Staff at Manning Base Hospital suspected that Mrs Clark's injuries had developed over a long period of time given that the sacral pressure sore had likely infected the sacrum. Mrs Clark's daughter Nardia confirmed that the sacral wound had been there since January (7 months prior) but had been treated with kenacomb ointment.[6] This is a corticosteroid with antibacterial and antifungal components to relieve inflammation and treat skin conditions that might be infected. Thus, it seems Nardia was trying to help her mother but her attempts were not enough.

7. Doctors at Manning Base Hospital quickly identified that Mrs Clark was "extremely unwell and at high risk of dying during her admission".[7]

8. It was determined that treating the area of the deep sacral pressure sore in the operating theatre would involve extensive debridement, given the extent of the wound. But Mrs Clark would also be at high risk of death or complications if administered an anaesthetic for the purpose of the debridement. It was therefore determined, in consultation with Nardia, that Mrs Clark would be managed under a comfort or palliative care regime. She would not be resuscitated or intubated but her pain and care managed as well as possible in the circumstances.

9. With careful nursing attention in hospital Mrs Clark at least was able to be bathed, her hair was washed, she was re-hydrated, her pressure sores treated and she was placed onto a pressure care mattress to try and reduce contact on those parts of her body which were already showing pressure injuries. One hopes that she found at least a measure of comfort as a result of this attention.

10. The hospital indicated that they believed Mrs Clark had been the victim of elder neglect[8] and that they would be contacting the Elder Abuse Helpline. Such contact was duly made.

11. She died three days after admission and the later autopsy concluded the direct cause of her death was the combined effects of severe malnutrition and infection.[9] Infection was thought to be septicaemia secondary to the infected sacral pressure sore likely with infection of the sacrum bone and

[4] [Tab 4 and 15]
[5] [Tab 11.9]
[6] [Tab 15]
[7] [Tab 15]
[8] According to the Australian Society for Geriatric Medicine Position Statement No. 1 Elder Abuse, Revised 2003:

> *"Elder abuse is any pattern of behaviour which causes physical, psychological or financial harm to an older person….[it] may take the following forms: physical abuse…psychological abuse…financial/economic abuse…neglect. "Neglect" is then defined as: The failure to provide adequate food, shelter, clothing, medical care or dental care."*

[9] [Tab 4]

early bronchopneumonia. The Hospital records report Nardia telling attending doctors that her mother had been experiencing "noisy breathing for the last few days."[10]

12. Questions understandably arise as to how a vulnerable 83 year old woman could be reduced to the pitiful state in which Mrs Clark was found on 17 July 2014. While the impulse might be to rush to judgment, the focus of this inquest was on how things came to such a low ebb. The evidence suggested that the answer is complex and points to a carer who was possibly exhausted, stressed and struggling to care for herself, much less Mrs Clark, towards the end of her life.

Background

13. Mrs Clark had five children: Sharon, Gary, Nardia, Stephen (died in 2008) and Celia. It was her daughter, Nardia, who lived with Mrs Clark even after Mrs Clark separated from her husband in 1981. Nardia came to be her mother's carer.

14. There is scant evidence about Mrs Clark's medical history but a statement from Mrs Sharon Logan, Mrs Clark's eldest daughter, suggests that Mrs Clark suffered from a mental illness all her life, eventually diagnosed as bi-polar disorder. There is no evidence about who made the diagnosis or when, but Mrs Logan describes several times, dating back to Mrs Logan's childhood, when her mother was hospitalised due to mental illness. Mrs Logan says that her mother developed panic attacks and in the later years of her life "refused to go to the doctor or dentist or have strangers in the unit".[11]

15. During Mrs Clark's admission to Manning Base Hospital, Mrs Logan told Hospital staff that when her mother was manic she would get messages from God, see four moons and the number 666 and when she was depressed she wouldn't talk or respond.[12]

16. This evidence says something about the difficulties involved in caring for Mrs Clark, in addition to the potentially debilitating physical diseases that she was also said to suffer from. I will outline these shortly.

17. Whilst Sharon Logan describes her sister as being "quite adept at sourcing help"[13] other evidence in the brief suggests that at least by 2014, Nardia was struggling to cope with caring for her mother.

[10] [Tab 11.5]
[11] Exhibit 2, para 9
[12] [Tab 15]
[13] Exhibit 2

18. Medical records first refer to Mrs Clark suffering from infected bed sores in 2012[14] and a 2013 note refers to a "skin infection" requiring treatment. By January 2014, according to Nardia, the sacral pressure sore was present. Additionally, Nardia says her mother was unable to walk in the last several months prior to her death which must have made toileting and bathing very difficult.[15]

19. Records show that Nardia did attend a local medical centre in 2014 to discuss her mother's care. She eventually obtained assistance via Meals on Wheels but this was only in the last week of Mrs Clark's life. Nardia also re-engaged with a group called Helping Hands on a referral from the General Practitioner, Dr Thai Doan. This service had provided home help back in 2012 and were re-engaged in 2014 to assist with cleaning.

20. A worker from Helping Hands attended on one occasion only prior to Mrs Clark being taken to hospital and therefore had only a limited opportunity to observe the home. In her statement the Helping Hands worker describes the home as being in a filthy state and it took her some time to speak to Nardia and encourage her to leave the windows open and admit fresh air whilst the worker was cleaning.[16]

21. The Helping Hand worker was not aware, prior to visiting the home, that Mrs Clark was also living in the house. On the single occasion that the worker attended, she began to vacuum and opened the door to a bedroom, unaware that there was someone in bed. The room was dark, curtains drawn and no light on; when the cleaner saw a very frail old lady in bed who seemed to be asleep, she left the room and closed the door.[17]

Nardia Clark

22. The evidence suggests that Nardia Clark was struggling to care for herself, much less being able to adequately care for her mother, an 83 year old bed bound woman.

23. Firstly, paramedics who attended Mrs Clark also observed that Nardia herself was unkempt, dirty, seemed confused and was a poor historian when it came to describing her mother's history.[18] This followed a period when Nardia told her sister that she had been unwell with a virus (this might explain her unkempt state).

[14] [Tab 17]
[15] [Tab 8.3]
[16] [Tab 19]
[17] [Tab 19.7]
[18] [Tab 13.6]

24. Secondly, when Mrs Clark was at the Hospital, Nardia was observed by hospital staff to be lacking insight about her mother's condition and unable to really explain why she didn't try and get medical assistance for her mother earlier.

25. Thirdly, the Officer in Charge observed in a statement based upon his discussions with Nardia over a year after her mother's death, that Nardia's "level of care and living conditions for herself are presently somewhat inadequate".[19]

26. Fourthly, there is evidence before the court regarding the sad circumstances surrounding the disappearance of Nardia in July 2016. Nardia's body was discovered in bushland in September of that year.

27. The expert evidence before the court highlights that carer stress is very commonly seen in people who care for disabled older people.[20] One can only speculate as to the effect this may have had on Nadia.

Mrs Clark's medical history

28. Despite having initially provided a letter to Police referring to dementia and Parkinson's Disease as being included in Mrs Clark's past medical history, Dr Thai Doan clarified this history in his oral evidence. He was not the doctor responsible for either "diagnosis" or notation in the records of the West Street Medical Centre and he does not know when such "diagnosis" was made. He did not observe Mrs Clark to have symptoms suspicious for Parkinson's disease.

29. It must also be observed that he did not regularly see Mrs Clark. The majority of her appointments involved her daughter Nardia attending to pick up scripts for her mother. Although Dr Doan's notes are unclear as to whether Mrs Clark was present at a consultation, or just Nardia, it appears that Dr Doan saw Mrs Clark in person at possibly 10 consultations across the period 2011-2014. He had at least an additional 12 consultations with Nardia, but in the absence of Mrs Clark, across the same period.

30. Dementia and Parkinson's disease are listed in the "Past Medical History" section of Mrs Clark's records but there is no date recorded as date of diagnosis and nothing to explain how each purported diagnosis was made.

31. The most detail within the records comes from an entry on 17 November 2010 by a doctor other than Dr Doan. The record says "appear Parkinson

[19] [Tab 7.7]
[20] [Tab 23.6]

stop Zyprexa and try Epilim then r/v". There is nothing recording what Mrs Clark or Nardia had said to the doctor, or what the doctor had observed, to lead to the conclusion of "appear Parkinson".

32. When Mrs Clark returned with Nadia three months later the doctor was informed that she had not yet started the Epilim trial. There is no record of any discussion exploring why Mrs Clark had not yet commenced the medication.

33. With the benefit of hindsight one can see how this might be an important discussion when a doctor has recommended a course of treatment that an elderly patient, dependent upon another family member as carer, has not pursued. A curious doctor might ask and record whether the failure to commence the trial was Mrs Clark's choice, or due to financial pressures, or due to an inability to find the script or get to the chemist or due to her carer neglecting to follow through on medical advice. There could be any number of reasons to explain this but the records do not provide any clues about why Mrs Clark didn't trial new treatment for "appear Parkinson".

34. According to the records, this was not further pursued in any later appointment. There is no record or further reference to Parkinson's disease nor discussion about whether Mrs Clark ultimately tried the Epilim and no referral to a geriatrician or neurologist.

35. It cannot be ascertained whether Mrs Clark had Parkinson's disease or, as Professor Kurrle (Curran Chair in Health Care of Older People at the University of Sydney who provided an expert report) suggests, Parkinsonism due to drug therapy. The records do record Mrs Clark receiving Zyprexa (Olanzapine) scripts from time to time and Professor Kurrle notes that "this medication can cause side effects that mimic Parkinson's disease." This was never explored with Mrs Clark.

36. Similarly, whilst the past medical history records Mrs Clark as having dementia, this was not diagnosed by Dr Doan. Again, there is nothing within the records to explain how this diagnosis was reached nor is there any record of cognitive testing to assess whether or not this woman, 83 years old at the time of her death, was experiencing any type of cognitive decline.

Dr Doan's treatment of Mrs Clark

37. To his credit, Dr Doan made an early concession that his records relating to Mrs Clark's care were inadequate. Most of the consultation notes are very scant and for those appointments where he spoke to Nardia about

Mrs Clark without his patient being present, the only narrative usually recorded is “script” or “scripts”.

38. On those occasions when Mrs Clark was present, the narrative included within each record was still deficient. At most consultations Dr Doan neglected to properly record the outcome of any physical examination. He did not include sufficient details of the presenting problem or treatment plan.

39. On 3 April 2018 Dr Doan completed a CPD Education Program course called “On the record: medical records and documentation.” Dr Doan’s record keeping in this case provided ample justification for the need to complete such a course and it is to his credit that he has now done so. In his oral evidence he demonstrated an understanding of the importance of thorough record keeping to guide future care.

40. What is known from the Dr Doan’s records is that Mrs Clark first complained to the doctor of a bed sore in November 2012. The notes do not record where the bed sore was or its size but Dr Doan recollects it was on Mrs Clark’s heel and was only at a very early stage when he first saw it. He prescribed antibiotics and bactroban ointment. Notes from a further consultation in January 2013 also referred to a “Skin infection” but Mrs Clark did not return to the surgery until November 2013 when she complained of red eyes and was treated for conjunctivitis.

41. On 9 December 2013 Mrs Clark attended an appointment with Dr Doan and Nardia, complaining of diarrhoea. She was reported to have been suffering diarrhoea for 3 weeks prior to this appointment and one can imagine that this would have increased the workload of her carer if Mrs Clark was needing extra help in getting to the toilet, showering and changing etc.

42. It seems that Mrs Clark’s last personal attendance upon Dr Doan was in relation to this illness. He did not see Mrs Clark at all in 2014. In that year Nardia was attending in the absence of her mother.

43. At an appointment on 22 January 2014 Dr Doan and Nardia discussed referrals to help Nardia care for her mother. The records provide scant detail but confirm a discussion around getting home care into the home and Dr Doan referring Nardia and Mrs Clark to “Helping Hands” homecare service.

44. Although there is no specific note in Mrs Clark’s file, it is Dr Doan’s recollection that he did on occasion talk to Nardia about other services such as Meals on Wheels and did offer a home visit if required. He said that he conducted home visits for other patients.

45. Again, the records provide little assistance but it is clear from Nardia’s own medical records that Dr Doan did have “family discussion” with her in 2012 regarding her mother and it is likely that there was another “family

discussion" on 22 January 2014 given that the "Helping Hands" referral followed.

46. It is clear that no doctor from West Street Medical Centre conducted a home visit to see Mrs Clark.

47. Based on Nardia's report to Dr Doan as set out in the medical records and corroborated by the notes taken on admission to Manning Base Hospital, Mrs Clark experienced bouts of diarrhoea and further problems with bed sores in 2014.

48. Nardia was unwilling or unable to recognise the serious health implications for her mother if these conditions were not properly managed. Professor Kurrle provided expert evidence about how very difficult it would be for one carer to properly care for a relative who was bed bound, developing pressure sores and experiencing diarrhoea. Nardia ultimately told the Hospital that her mother had been bed bound since November 2013 and it is clear from all the evidence that Mrs Clark was not being properly cared for at home.

49. Dr Doan gave evidence that he was never suspicious of the possibility that Mrs Clark was being neglected. He had observed a loving and respectful relationship between mother and daughter and in his culture it is not unusual for a daughter to assume the care of elderly parents. Sadly, a loving and respectful relationship does not prevent neglect occurring if the carer is overwhelmed by responsibilities or unable to even recognise what level of care their family member requires.

50. Dr Doan was working in a busy general practice, he saw Mrs Clark on relatively few occasions spread across a number of years. He saw Nardia on additional occasions but did not question her about her mother's care in such detail as to elicit a true picture of how Mrs Clark was coping at home. And Nardia was unlikely to volunteer details: the evidence suggests that she, like her mother, did not want strangers coming into the home and in fact seemed to want to close off the home from the outside world.

51. This is not to attribute any malicious intent to Nardia. Rather, the evidence suggests that she simply was not up to the very difficult task of caring for her elderly mother alone.

The Elder Abuse Helpline and Resource Unit

52. Ms Kerry Marshall gave evidence about the valuable work undertaken by the Elder Abuse Helpline and Resource Unit. The Helpline allows anyone (which obviously includes family members, doctors, community workers or, importantly, older members of the community themselves) to contact an 1800 number and receive information, support and referrals about possible situations of elder abuse (including neglect).

53. The Helpline will encourage the families, carers, service providers and treating health professionals to focus upon the needs of the older person and where there is disagreement about what those needs involve, refer to mediation or other forms of dispute resolution. The Helpline focuses on advocacy on behalf of the older person. Where that person has the capacity to make decisions for themselves in particular areas (acknowledging that capacity may fluctuate at times and that a person may have capacity to make some decisions but not others) they will be supported in that course.

54. Ms Marshall said that the Helpline is presently trialling a case coordination program whereby the Helpline will take on some cases and provide more than advice and referrals. Although still telephone based the case coordination trial involves having the Helpline coordinate referrals and follow up to make sure that people are actually being linked in with the appropriate services.

55. Based upon Ms Marshall's evidence this seems to be a much needed service and it is to be hoped that the trial will be assessed in due course and possibly expanded.

56. The Helpline is not an investigatory body. In cases where there are concerns that an older person is being abused in their home, presently NSW Police sometimes need to be asked to conduct a 'concern for welfare check' of the person at home. This is not a desirable situation generally, although it may be the option of last resort in extreme cases. There are very many extraordinary demands on NSW Police and they are not qualified nor equipped to act as social workers or health professionals who need to conduct medical or psycho-social reviews of an older person in their home. Whilst Police might be able to identify and investigate examples of gross abuse or neglect, they are not the appropriate service to investigate more insidious and less obvious forms of elder abuse or neglect.

57. This was something also discussed by Professor Kurrle in her evidence. It is important for some specialised service to have the capacity to enter the home of an older person and investigate arrangements for their care as a matter of last resort in cases where less intrusive forms of support or management have failed. This is considered further below.

58. The Helpline has another important aspect to its operation centred around providing education and resources for professionals working with older people. The Helpline helps general practitioners and community workers know what "red flags" to look for when working with older patients who might be at risk of elder abuse. For example, the court received into evidence the Elder Abuse Suspicion Index card provided to medical centres to prompt this type of critical thinking from general practitioners when assessing elderly patients.

59. This is not a complete summary of the work of the Helpline and only touches upon those matters that seem to most directly relate to Mrs Clark's case. Ms Marshall was able to confirm that in her case, Manning Base Hospital did indeed contact the Helpline for advice once Mrs Clark was admitted to Hospital but it was already clear that she was likely to further deteriorate and therefore there was no need to address who should be making decisions around discharge planning for Mrs Clark.

Aged Care Assessment Teams

60. With the benefit of hindsight it is obvious that Mrs Clark required an in home assessment to determine whether she could safely continue to live at home with support, or whether other arrangements would have to be made for her care.

61. Dr Doan says that in 2014 Aged Care Assessment Teams were available to provide home based assessments.

62. Professor Kurrle and Ms Marshall each gave evidence that changes to the way in which such assessments are now conducted have actually impeded access to services in many cases. Professor Kurrle suggested that an understandable concern - to speak to the older person involved and obtain their consent prior to assessment - sometimes frustrates access to services when the older person lacks capacity to give that consent. She said that things are slowly improving and that experts in the field have had some success in persuading administrators that a particular older person in fact lacks capacity to consent. It is obvious however from the evidence of Professor Kurrle and Ms Marshall that accessing Aged Care Assessments can be a frustrating experience for many.

63. Professor Kurrle also quoted from recent figures suggesting that there is an average 9 month delay between approval for a Home Support Package and the commencement of services.

64. This Inquest is not a broad ranging inquiry into Commonwealth funding of aged care services but it is obvious that such a delay puts vulnerable elderly people at risk if the services that they need are not quickly introduced once the need is established.

Should Recommendations be made?

65. At the close of evidence it is obvious that there is aged care reform afoot in both the federal and state spheres. In particular at a state level there has been detailed consideration given to establishing services that can support, educate, mediate and if necessary investigate situations where older people are at risk of abuse. Given the breadth of matters considered in the NSW Parliamentary Inquiry, the Government response to that Inquiry and the NSW Law Reform Commission proposal to amend the *Guardianship Act 1987*, there is no utility in this Court making further recommendations based upon this single case.

66. This doesn't mean that Mrs Clark's death is unimportant. It is important because it throws into stark relief the risk that arises when older people retreat from public view into their homes, whether due to physical infirmities or mental illness or for some other reason. It highlights the need to think critically about care arrangements for older people and to keep in mind the fact that arrangements will need to change over time because people are likely to need increasing care over time. It suggests that family members, doctors and others need to be curious about how carers are actually coping in reality and beyond the veneer they present to the outside world. And it emphasises the need to place the best interests of the older person at the centre of decision making around their care, if they are no longer able to make such decisions for themselves.

67. Should the case study that Mrs Clark's case sadly provides be of assistance to the experts at the Elder Abuse Helpline and Referral Unit or to Professor Kurrle and her colleagues at the University of Sydney in their important policy and research work, leave is granted for the coronial reasons to be used for such purpose.

Findings required by s. 81(1)

69. As a result of considering all of the documentary evidence and the oral evidence heard at the inquest, I am able to confirm that the death occurred and make the following findings in relation to it.

The identity of the deceased

70. The deceased person was Marcia Clark.

Date of death

71. She died on 20 July 2014.

Place of death

72. She died at Manning Base Hospital Taree, NSW.

Cause of death

73. The death was caused by the combined effects of severe malnutrition and infection.

Manner of death

74. Marcia Clark died from natural causes after a period of being neglected by her carer.

75. I close this inquest.

Teresa O'Sullivan
Deputy State Coroner

Date: 30 May 2018