QUEENSLAND COURTS

# CORONERS COURT OF QUEENSLAND

# FINDINGS OF INQUEST

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| CITATION: | **Inquest into the death of Lester Gilmore Shelton** |
| TITLE OF COURT: | Coroners Court |
| JURISDICTION: | BRISBANE |
| FILE NO(s): | 2022/4997 |
| DELIVERED ON: | 10 June 2024 |
| DELIVERED AT: | Brisbane |
| HEARING DATE(s): | 10 June 2024 |
| FINDINGS OF: | Stephanie Gallagher, Deputy State Coroner |
| CATCHWORDS: | Coroners: inquest, natural causes, death in custody. |

REPRESENTATION:

Counsel Assisting: Ms C McKeon

Queensland Corrective Services: Mr L O'Connor, QCS Legal Strategy and Services

West Moreton Hospital and Health Service (WMHHS): Ms J Webb, WMHHS.

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## Introduction

1. Mr Lester Gilmore Shelton was eighty-four years of age when he passed away at the Princess Alexandra Hospital (*"PAH")* on the evening of 04 October 2022. He had been transferred to the PAH on 14 July 2022 for end of life care from the Woolston Correctional Centre *("WCC"),* where he was serving a term of imprisonment in relation to state and federal sexual offences against children. At the time of his death he was a prisoner.[1]

2. Mr Shelton died as a result of natural causes, namely a chronic small bowel obstruction. Dementia, chronic obstructive pulmonary disease, frailty, diverticulitis, terminal ileitis, deep vein thrombosis, and anaemia were also determined to have also contributed to his death.

## Inquest mandated

3. Mr Shelton's passing is categorised as a death in custody[2] and is reportable pursuant to s8(3)(g) of the *Coroners Act 2003* (Qld) *("the Act").*[3] An inquest is mandatory in these circumstances.[4]

4. The inquest is intended to provide the public and most importantly, the family of the deceased, with transparency regarding the circumstances of the death, and to answer any questions which may have been raised following the death.

5. In accordance with section 45(2) of the Act, a Coroner who is investigating a death must, if possible, find:

    a) *who the deceased person is;*
    b) *how the person died;*
    c) *when the person died;*
    d) *where the person died, and in particular whether the person died in Queensland; and*
    e) *what caused the person to die.*[5]

6. On the basis that the evidence is that Mr Shelton died of natural causes, the issues to be considered are:

    a) the findings required by s.45(2) of the Act; and
    b) whether Mr Shelton's care at the WCC was appropriate and adequate;
    c) whether Mr Shelton's care at the Brisbane Correctional Centre *("BCC")* was appropriate and adequate.

7. The brief was disclosed to all parties on 02 February 2022. No witnesses were called to give evidence.

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[1] As defined in Schedule 4 *Corrective Services Act 2006* (Qld).
[2] s.10 *Coroners Act 2003* (Qld).
[3] s.8(3)(g) *Coroners Act 2003* (Qld).
[4] s.27(1)(a)(i) *Coroners Act 2003* (Qld).
[5] s.45(2) *Coroners Act 2003* (Qld).

8. The evidence given at this inquest is sufficient for the Court to:[6]

   a) be able to make each of the required findings; and
   b) make findings to the effect that the care afforded to Mr Shelton by the WCC and BCC was appropriate and adequate.

## Corrective Services Investigation Unit ("CSIU") investigation

9. The coronial investigation into Mr Shelton's death was undertaken by Senior Constables Khaile (Investigating Officer) and McEwen (Reporting Officer) of the Queensland Police Service ("QPS") CSIU.

10. After being notified that Mr Shelton was not breathing, not responsive and believed to be deceased, QPS attended cell three of the PAH secure unit. After he was officially declared to be life extinct, QPS entered Mr Shelton's locked cell. They observed him to be lying on a hospital bed in the centre of the room in a purple hospital gown. He was lying in a half – seated position with the head of the bed on an incline. There were no obvious injuries to Mr Shelton. Both of his feet were wrapped in bandages, and he also had small bandages in his shins and left arm.

11. A Form 1 report, on the basis that the matter was a death in custody, was furnished on 04 October 2022. It was received by the Office of the State Coroner on 05 October 2022.

12. On 05 October 2022, Acting State Coroner Gallagher (as her Honour then was), issued a direction to QPS to the effect that no further investigation was required.

13. Senior Constables McEwen and Khaile provided a thorough report. While conclusions to the below effect are not specifically stated by Senior Constables McEwen and Khaile in the report, the contents are such that findings are made that:

   a) there are no suspicious circumstances surrounding Mr Shelton's passing;
   b) Mr Shelton was provided with appropriate care and treatment; and
   c) the death was not preventable.

### Social and medical history

14. Mr Shelton was born on 25 March 1938. He had a wife and two adult children and had retired from previously working on the railway as a labourer.[7]

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[6] The required standard being on the balance of probabilities per the Briginshaw Scale (*Briginshaw v Briginshaw* (1938) 60 CLR 336 at [362]).
[7] Exhibit B2.1 – Shelton, Lester F74485 PHS IM Vol 1, page 39.

15. On 25 November 2020, Mr Shelton was sentenced by the Ipswich District Court to concurrent periods of imprisonment of 6 years, 3 years, 2 years and six months in relation to numerous state and federal child sex offences dated between 2014 and 2017.[8]

16. On 27 November 2020 Mr Shelton was incarcerated at the BCC before being transferred to the WCC on 09 December 2020.[9]

17. On 27 November 2020 Mr Shelton was reviewed by a nurse at the BCC who noted he had "*extensive medical health issues*." These included:

    a) left shoulder reconstruction;
    b) cataract surgery;
    c) lower back degeneration;
    d) emphysema;
    e) diverticulitis;
    f) enlarged prostate;
    g) industrial deafness;
    h) arthritis and associated joint pain;
    i) shortness of breath;
    j) reduced activity tolerance;
    k) poor balance and mobility issues;
    l) memory problems;
    m) depression; and
    n) incontinence.[10]

18. During the brief time he was at the BCC, Mr Shelton was regularly seen by nursing staff.[11]

19. On 09 December 2020 Mr Shelton was triaged by nursing staff at the WCC to be referred to an MO ("*Medical Officer*") and the chronic disease NP *("Nurse Practitioner"*) due to his emphysema.[12]

20. During his incarceration at both centres, he was reviewed and seen by clinical staff on a regular basis in light of his frailty and medical history, and in accordance with his health care needs. He weighed 75 kilograms on admission.[13]

21. Mr Shelton was allocated a prison carer to assist with his activities of daily living as per the Queensland Corrective Services ("*QCS*") model and was offered showering assistance regularly by the health centre's Assistant in Nursing ("*AIN*"). It was noted that he would often refuse to shower and refuse assistance from the AIN despite continued offers of the same, advising that he could do this independently. Accordingly he was removed

[8] Exhibit D1- Not For Production Criminal History of Lester Gilmore Shelton, pages 5-6.
[9] Exhibit C1 – Statement of Dr Katrina Della Bosca at [13].
[10] Exhibit B2.1 – Shelton, Lester F74485 PHS IM Vol 1, page 31.
[11] Exhibit B2.1 – Shelton, Lester F74485 PHS IM Vol 1, pages 31 – 33.
[12] Exhibit B2.1 – Shelton, Lester F74485 PHS IM Vol 1, page 35.
[13] Exhibit C1- Statement of Dr Katrina Della Bosca at [14].

from the AIN list on 04 July 2021, noting he could request AIN assistance in future if needed.[14]

22. Mr Shelton was admitted to and/or assessed at the PAH on eight occasions during his incarceration, the first being on 23 December 2020 and the last commencing on 14 July 2022. On these occasions, he was hospitalised, assessed and treated for a range of conditions including bronchitis, small bowel obstruction, terminal ileitis, diarrhoea, vomiting, abdominal pain, abdominal distension, decline in function, weight loss, anaemia, cognitive impairment, frailty and altered levels of consciousness. His final admission was for end of life care.[15]

23. During his visit to the PAH on 23 December 2020, investigations determined Mr Shelton had terminal ileitis with associated early/partial small bowel obstruction.[16] This diagnosis was further confirmed during his admission beginning on 02 January 2022.[17] Mr Shelton was later discharged on 06 January 2022 after he had "*good clinical improvement.*"[18]

24. During his admission to the PAH beginning on 20 April 2022, Mr Shelton underwent a CT scan of his abdomen that showed his small bowel obstruction was still present.[19] While it was initially planned he would undergo a colonoscopy, it was cancelled because *"given* [Mr Shelton's] *frailty, even if a malignancy was to be found,* [Mr Shelton] *would be unsuitable for a major surgical operation*."[20] Simply put, it was considered that given his age and frailty, he would not survive the operation.[21]

25. In discharging Mr Shelton on 26 April 2022 it was noted that "*if* [Mr Shelton] *is to re-present with bowel obstruction, conservative management is to be first line. If it fails, patient* [sic] *will need to be for palliative care*."[22]

26. Mr Shelton became symptomatic and was admitted again on 28 May 2022.[23] He was managed conservatively and his symptoms resolved. He was discharged on 29 May 2022.[24]

27. From 30 May 2022 onwards, WCC reported Mr Shelton to be exhibiting functional decline including dizziness, falls, and poor food and fluid intake.

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[14] Exhibit C1 – Statement of Dr Katrina Della Bosca at [16].
[15] Exhibit B2.1 – Shelton, Lester F74485 PHS IM Vol 1, pages 36, 37, 61, 75, 77, 84, 117-118, 175, 194, 199, 203 – 204, 206; Exhibit B2.2 – Shelton, Lester F74485 PHS IM Vol 2, pages 32, 33, 35- 36, 58, 62, 70.
[16] Exhibit B2.1 – Shelton, Lester F74485 PHS IM Vol 1, page 206.
[17] Exhibit B2.1 – Shelton, Lester F74485 PHS IM Vol 1, page 199.
[18] Exhibit B2.1 – Shelton, Lester F74485 PHS IM Vol 1, page 194.
[19] Exhibit B2.1 – Shelton, Lester F74485 PHS IM Vol 1, page 117.
[20] Exhibit B2.1 – Shelton, Lester F74485 PHS IM Vol 1, pages 117 – 118; Exhibit C1 – Statement of Dr Katrina Della Bosca at [26].
[21] Exhibit C1 – Statement of Dr Katrina Della Bosca at [26].
[22] Exhibit B2.1 – Shelton, Lester F74485 PHS IM Vol 1, pages 75 and 118.
[23] Exhibit B2.1 – Shelton, Lester F74485 PHS IM Vol 1, page 175.
[24] Exhibit B2.1 – Shelton, Lester F74485 PHS IM Vol 1, page 175.

He was closely monitored by his carer and treated and reviewed regularly by clinical staff.[25] He was referred for geriatric assessment with stated concerns being decline in general function, significant weight loss, anaemia, recurrent small bowel obstruction and cognitive impairment.[26]

28. Mr Shelton had two subsequent admissions in June 2022 due to him becoming symptomatic again. On both occasions he was managed conservatively and reviewed by the palliative care team. Plans moving forward included a free fluid and puree diet, ongoing dietician review, medication for symptoms and delirium relief, along with a nasogastric tube to decompress the bowel.[27]

29. On the latter admission, Mr Shelton was deemed to be for palliative care review as he was *"not amendable to surgical intervention."* It was noted that Mr Shelton's family were in agreement for best medical management and comfort cares.[28]

30. Mr Shelton was discharged on 30 June 2022.[29] At that time "*in light of his health status he was paroled and released from custody directly from the* [PAH] *on 30 June 2022 on compassionate grounds. However, as he had no palliative bed to go to, and his home address was either not yet assessed or not deemed suitable by the Parole Board he was re-incarcerated and was recepted* [sic] *into* [BCC] *on 1 July 2022*."[30]

31. On return to the BCC on 01 July 2022 Mr Shelton was reviewed by nursing staff who noted his medical history and that Mr Shelton was not suitable for major surgery, only for conservative management given his frailty.[31] His weight on return was 52 kilograms.[32] Risk assessments for falls and pressure areas were undertaken. Mr Shelton consumed limited food and fluid and was referred to the dietician for nutritional support. A plan was made to switch to Sustagen as he disliked Resource Plus and he was offered extra soft foods that he liked.[33]

32. During this period of incarceration, Mr Shelton's food consumption declined and he reported nausea. He was observed to be vomiting on 02 July 2022 and it was noted he appeared very frail on 04 July 2022.[34]

33. On 07 July 2022 Mr Shelton was transferred to the WCC at which time it was noted he was orientated to person, place and time.[35] Due to his age and medical conditions he was referred to the NP but he was unable to be

[25] Exhibit B2.1 – Shelton, Lester F74485 PHS IM Vol 1, page 78-80.
[26] Exhibit C1 – Statement of Dr Katrina Della Bosca at [31].
[27] Exhibit C1 – Statement of Dr Katrina Della Bosca at [33]- [34].
[28] Exhibit B2.2 – Shelton, Lester F74485 PHS IM Vol 2, page 58.
[29] Exhibit B2.2 – Shelton, Lester F74485 PHS IM Vol 2, page 58.
[30] Exhibit C1 – Statement of Dr Katrina Della Bosca at [35].
[31] Exhibit B2.2 – Shelton, Lester F74485 PHS IM Vol 2, page 27.
[32] Exhibit B2.2 – Shelton, Lester F74485 PHS IM Vol 2, page 28.
[33] Exhibit C1 – Statement of Dr Katrina Della Bosca at [37].
[34] Exhibit B2.2 – Shelton, Lester F74485 PHS IM Vol 2, pages 27 – 29.
[35] Exhibit B2.2 – Shelton, Lester F74485 PHS IM Vol 2, page 32.

seen before he died due to his deterioration and transfer back to hospital.[36] His cognition was noted to be fluctuating.[37] He was re-admitted to the PAH for assessment[38] due to an altered level of consciousness, but was returned to WCC on 09 July 2022 with no clear reason for his reduced level of consciousness being identified.[39]

34. Post- transfer, Mr Shelton continued to be monitored by the clinical team and his carer. He was reported to be exhibiting significant functional decline including very poor food and fluid intake, inability to participate in personal cares due to frailty, altered consciousness and confusion.[40]

35. On this basis clinical staff from WCC recommended Mr Shelton would "*benefit from high level care facility/palliative care"* and referred him to the PAH.[41] He was transferred there on 14 July 2022 for end of life care.[42]

36. On 14 July 2022 Dr Levi Houston spoke to Mr Shelton's son, Lester Shelton Junior, in relation to an Acute Resuscitation Plan for Mr Shelton. Following a capacity assessment Dr Houston opined that Mr Shelton did not have the capacity to consent to and/or refuse medical treatment.[43]

37. A Resuscitation Management Plan was made, in consultation with Mr Shelton's son, that Mr Shelton was not for resuscitation, and that only comfort cares would be provided in the event of his deterioration.[44]

38. On 15 July 2022 Mr Shelton was referred urgently to the Metro South Palliative Care Service.[45] Further functional and cognitive decline, plus poor oral and fluid intake were noted,[46] but his palliative symptoms were otherwise stable.[47] He was discharged from the palliative care service on this basis on 28 July 2022[48] and remained in the PAH's secure unit.

39. On the morning of 01 August 2022 Dr Chandra called Mr Shelton's son, Lester Shelton Junior, and "*advised on terminal phase*" and "*encouraged to get in touch with SECU nursing staff to arrange visitation*." Dr Chandra advised Mr Shelton's son that she would update him if there were any changes.[49] At this stage, Mr Shelton was noted to be sleeping most of the day.[50]

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[36] Exhibit C1 – Statement of Dr Katrina Della Bosca at [40].
[37] Exhibit C1 – Statement of Dr Katrina Della Bosca at [41].
[38] Exhibit B2.2 – Shelton, Lester F74485 PHS IM Vol 2, page 33.
[39] Exhibit C1 – Statement of Dr Katrina Della Bosca at [42].
[40] Exhibit B2.2 – Shelton, Lester F74485 PHS IM Vol 2, page 32, 33, 34; Exhibit C1 – Statement of Dr Katrina Della Bosca at [42]- [43].
[41] Exhibit B2.2 – Shelton, Lester F74485 PHS IM Vol 2, page 34- 35.
[42] Exhibit B2.2 – Shelton, Lester F74485 PHS IM Vol 2, page 36.
[43] Exhibit B1.1 PAH records – PA68933 DH, pages 5 – 6.
[44] Exhibit B1.1 PAH records – PA68933 DH, page 6.
[45] Exhibit B1.1 PAH records – PA68933 DH, pages 23 – 25.
[46] Exhibit B1.1 PAH records – PA68933 DH, page 680, 678, 676, 674, 658.
[47] Exhibit B1.1 PAH records – PA68933 DH, page 637.
[48] Exhibit B1.1 PAH records – PA68933 DH, page 622.
[49] Exhibit B1.1 PAH records – PA68933 DH, page 602.
[50] Exhibit B1.1 PAH records – PA68933 DH, page 600.

40. By 18 September 2022 it was noted that Mr Shelton was struggling to sip on clear fluids with coughing and a *"rattle sound"* produced.[51] The following day, attempts were made to discuss *"comfort feeding and risks of aspiration/infection"* with Mr Shelton however he made minimal engagement. It was noted that he appeared very frail and wasted.[52]

**04 October 2022: day of death**

41. On the morning of 04 October 2022 Mr Shelton was noted to be "*alert on assessment and able to obey commands.*"[53]

42. At 11:40am it was noted that Mr Shelton's "*extremities were dusky, cool and pale*" and that he was "*noticeably in pain, groaning with a grimace* [sic] *facial expression*." He was given morphine.[54]

43. At lunchtime it was reported that Mr Shelton's "*breathing seemed laboured and increased*" but he did not appear to be in pain. QCS was made aware of Mr Shelton's deteriorating state.[55]

44. By 5:46pm, Mr Shelton did not have any obvious signs of life upon examination and he was certified to be deceased by Dr James Schneider.[56]

45. At the time of his death Mr Shelton's medical history included the following comorbidities:

    a) diverticulitis;
    b) prostatic hyperplasia;
    c) asthma and Chronic Obstructive Pulmonary Disease (COPD);
    d) recurrent small bowel obstruction with terminal ileitis (inflammation of the ileum);
    e) incontinence;
    f) arthritis of the shoulder and back;
    g) dementia;
    h) depression; and
    i) previous deep vein thrombosis. [57]

46. Additionally, Mr Shelton was on the following medications during his last admission to the PAH:

    a) Ascorbic Acid 500mg, in the morning (Vitamin C supplement);
    b) Ferrous Sulphate, 325mg in the morning (iron supplement);

[51] Exhibit B1.1 PAH records – PA68933 DH, page 387.
[52] Exhibit B1.1 PAH records – PA68933 DH, page 384.
[53] Exhibit B1.1 PAH records – PA68933 DH, page 326.
[54] Exhibit B1.1 PAH records – PA68933 DH, page 323.
[55] Exhibit B1.1 PAH records – PA68933 DH, page 323.
[56] Exhibit B1.1 PAH records – PA68933 DH, page 321.
[57] Exhibit C1 – Statement of Dr Katrina Della Bosca at [11].

c) Haloperidol 0.5mg, twice per day (for delirium);
d) Hydroxycobalamin 1mg/1ml, 1mg intramuscular every 3 months (Vitamin B12 supplement);
e) Movicol, 2 sachets twice per day when necessary (for constipation);
f) Paracetamol, 1330mg twice per day (for pain);
g) Picosulfate sodium, 7.5mg.ml, 10 drops twice daily when necessary (for constipation);
h) Resource Plus, 200ml BD (nutritional supplement);
i) Salbutamol 100 micrograms, Inhaler, 2-4 puffs four times per day if required (for wheeze and shortness of breath);
j) Tiotropium 18 micrograms, Inhaler, in the morning (to manage COPD); and
k) Venlafaxine 150mg, at night (for depression). [58]

47. On 23 August 2023 a statement was provided by Dr Katrina Della Bosca, a Senior Medical Officer employed by the West Moreton Hospital and Health Service. Dr Della Bosca was directly involved in the care and treatment provided to Mr Shelton throughout his incarceration at both BCC and WCC and referred him to the PAH in what eventuated as his final admission.[59] Dr Della Bosca advised she had no concerns regarding the PAH's decision to manage Mr Shelton palliatively, and no concerns with the PAH's management of Mr Shelton in general, considering both to be reasonable in the circumstances.[60]

## Autopsy

48. On 10 October 2022 Dr Jennifer McCourt conducted preliminary examinations including an examination of body, review of medical information and summaries, photography, blood and urine testing and CT scans.[61]

49. Dr McCourt prepared a preliminary examination report which provided the following summary of findings:

a) *an emaciated elderly adult male with signs of recent medical therapy;*
b) *multiple minor bruises, superficial lacerations, abrasions, and pressure ulcers. There was no sign of major trauma. There were no suspicious injuries;*
c) *CT scans showed brain atrophy, lung hyperinflation, calcification of the coronary arteries and air fluid levels in the bowel in keeping with small bowel obstruction; and*

[58] Exhibit C1 – Statement of Dr Katrina Della Bosca at [12].
[59] Exhibit C1 – Statement of Dr Katrina Della Bosca at [13]- [44]; Exhibit B2.2- Shelton, Lester F74485 PHS IM Vol 2, page 35.
[60] Exhibit C1 – Statement of Dr Katrina Della Bosca at [45]- [46].
[61] Exhibit A2 – Preliminary Examination Report, page 1.

d) *femoral blood and urine are held.* [62]

50. In preparing the report, Dr McCourt stated "*please note that the underlying cause for small bowel obstruction in this case remains unascertained in the absence of an internal examination*" and opined that "*it is possible that an internal examination will fail to elucidate underlying factors contributing to the obstruction*."[63]

51. Dr McCourt concluded that the cause of death was:

1(a) Chronic small bowel obstruction
2 Dementia, chronic obstructive pulmonary disease, frailty, diverticulitis, terminal ileitis, deep vein thrombosis, anaemia.[64]

## Findings required by s. 45 of the Act:

Pursuant to s45 of the Act, I find that:

**Identity of the deceased** – Lester Gilmore Shelton

**How he died** –

(i) Mr Shelton was serving a term of imprisonment in relation to state and federal child sex offences. He had extensive pre-existing comorbid health issues and in the two years prior to his death developed terminal ileitis and a recurrent small bowel obstruction. He experienced a steady decline in heath during this period. In the months preceding his death he was treated conservatively and palliatively;

(ii) in light of his health status he was paroled and released from custody directly from the PAH on 30 June 2022 on compassionate grounds. However, as he had no palliative bed to go to, and his home address was either not yet assessed or not deemed suitable by the Parole Board, he was re-incarcerated and was taken back into the BCC on 1 July 2022; and

(iii) on 14 July 2022, Mr Shelton was admitted to the PAH for end of life care as his health had further declined. He died of natural causes.

[62] Exhibit A2 – Preliminary Examination Report, page 1.
[63] Exhibit A2 – Preliminary Examination Report, page 1.
[64] Exhibit A3- Form 30A Coronial Certificate.

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| **Place of death** – | Cell 3 of the secure unit at the Princess Alexandra Hospital, 199 Ipswich Road, Woolloongabba, Queensland 4102 |
| **Date of death**– | 04/10/2022 |
| **Cause of death** – | 1(a) Chronic small bowel obstruction<br>Other significant conditions:<br>Dementia, chronic obstructive pulmonary disease, frailty, diverticulitis, terminal ileitis, deep vein thrombosis, anaemia. |

## Comments and recommendations

52. Further, consideration of the material before me in evidence enables me to make findings that, there is no evidence that:
    a) one or more inmates, correctional staff or health care staff at the BCC or WCC caused or contributed to his death; and
    b) there are suspicious circumstances related to the death.

53. It is an accepted principle that the health care provided to prisoners should not be of a lesser standard that that provided to other members of the community.[65]

54. In respect of the primary issue for consideration, I find that there is no evidence which suggests that the care afforded to Mr Shelton by the BCC or WCC was anything other than adequate and appropriate. Mr Shelton's passing was expected and the final stages of his life were managed palliatively and according to his Acute Resuscitation Plan in consultation with his family.

55. Whilst I have the power to make comments in connection with a person's death with respect to matters of public health or safety, the administration of justice, or ways to prevent death from occurring in similar circumstances in future,[66] no such recommendations are made by me in this matter.

I close the inquest.

Stephanie Gallagher
Deputy State Coroner
BRISBANE

[65] s.37 *Human Rights Act 2019* (Qld); *Reducing barriers to health and wellbeing: The Queensland Prisoner Health and Wellbeing Strategy 2020-2025.*
[66] s.46(1) *Coroners Act 2003* (Qld).