CORONERS COURT OF QUEENSLAND

FINDINGS OF INQUEST

CITATION:	Inquest into the death of Francis Lex Deemal
TITLE OF COURT:	Coroners Court
JURISDICTION:	BRISBANE
FILE NO(s):	2023/3736
DELIVERED ON:	8 July 2026
DELIVERED AT:	BRISBANE
HEARING DATE(s):	8 July 2026
FINDINGS OF:	T Ryan, State Coroner
CATCHWORDS:	Coroners: inquest, natural causes, death in custody, chronic kidney disease, refusal to undergo dialysis.

REPRESENTATION:

Counsel Assisting:	D Palmer
Cairns and Hinterland Hospital and Health Service	H Price
Queensland Corrective Services	J Villanueva

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Introduction

1. Francis Lex Deemal was 70 years of age when he died at Mareeba Hospital on 2 August 2023. Francis was transferred from Lotus Glen Correctional Centre (LGCC) on 31 July 2023. He had been serving a term of imprisonment in relation to sexual offences. Francis passed from natural causes as a result of chronic kidney disease. Atherosclerotic cardiovascular disease and diabetes mellitus were also considered to have contributed to his death.

Coronial jurisdiction

2. At the time of his passing, Francis was a prisoner in custody as defined in Schedule 4 of the *Corrective Services Act* 2006 (Qld). Francis' passing is a reportable death under section 8(3)(g) of the *Coroners Act 2003* (Qld) (the Act) as it is a 'death in custody'.

3. An inquest is required for deaths in custody. An inquest is intended to provide the public and 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.

4. 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.

5. The relevant standard of proof is that of the balance of probabilities, with reference to the *Briginshaw*[1] standard. Accordingly, the more significant the issue for determination, the clearer and more persuasive the evidence must be for the coroner to be sufficiently satisfied on the balance of probabilities that the issue has been proven:

> *But reasonable satisfaction is not a state of mind that is attained or established independently of the nature and consequence of the fact or facts to be proved. The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding are considerations which must affect the answer…In such matters 'reasonable satisfaction' should not be produced by inexact proofs, indefinite testimony, or indirect inferences.*[2]

[1] *Briginshaw v Briginshaw* (138) 60 CLR 336.
[2] *Briginshaw v Briginshaw* (138) 60 CLR 336, 362 – 363 (Dixon J).

6. In adjudicating the significance of the evidence, the impact of hindsight bias and affected bias must also be considered.[3] As outlined in 'The Australasian Coroners Manual':

> *Hindsight bias is the tendency after the event to assume that events are more predictable or foreseeable than they really were. What is clear in hindsight is rarely as clear before the fact…It is an obvious point, but one that nonetheless bears repeating, particularly when coroners are considering assigning blame or making adverse comments that may damage a person's reputation.*
> *…*
> *Coroners should attempt first to understand the circumstances as they appeared at the relevant time to the people who were there.*
> *…*
> *Hindsight, of course, is a very useful tool for learning lessons from an unfortunate event. It is not useful for understanding how the involved people comprehended the situation as it developed. This distinction needs to be understood and rigorously applied.*[4]

The investigation

7. The investigation into Francis' passing was led by Detective Sergeant (DS) Glen Skugor of the Queensland Police Service (QPS) Corrective Services Investigation Unit (CSIU).

8. After being notified of Francis' passing on 2 August 2023, local police from the Mareeba Police Station attended Room 6 of East Ward at Mareeba Hospital. Francis was in a hospital gown and was cold to the touch. Francis did not have any injuries, marks or indications of a suspicious death.

9. On 3 August 2023, I made a direction for a targeted police investigation to occur. A Coronial Investigation Report was prepared and provided to the Coroners Court on 22 February 2024.

10. DS Skugor conducted a thorough investigation in response to the targeted direction. He concluded that it appeared that Francis was treated satisfactorily and adequately whilst in Queensland Corrective Services custody.

The inquest

11. The inquest was held at Brisbane on 8 July 2026. All statements, medical records, 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.

[3] Findings of the inquest into the death of Pasquale Rosario Giorgio, [140] – [142].
[4] Hugh Dillon and Marie Hadley, *The Australasian Coroner's Manual* (The Federation Press, 2015) 10.

12. The issues considered at the inquest were the issues required by s 45(2) of the Act, and whether Francis had access to, and received appropriate medical care, while he was in custody.

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

The evidence

Social and Medical History

14. Francis was born on 8 February 1953 at Cooktown[5] and had six sons.

15. Francis' sister, Gwendoline Hall, provided a family statement to the inquest, in which she shared the following about her brother:

> *Francis is the second eldest in a family of five siblings. I am the eldest. We were born and raised in Hope Vale, in a respectful, loving and close-knit family network.*
>
> *The Lutheran Church in collaboration with the State Government at the time, convinced parents to send children down south to live with Lutheran families to obtain a good education. This was the Assimilation era. Francis and I attended Lutheran Colleges, and our three siblings lived with Church families. Francis attended St. Peters Lutheran College in Brisbane; and I attended Concordia College in Toowoomba. At the end of each year, we all returned home on holidays.*
>
> *Our mother worked for the State Government, until she retired. First Indigenous woman to do so in Cape York. Our father was the first Indigenous person to be elected on the Cook Shire Council. He held that position for a dozen years or more. Both parents mingled with the wider community outside of Hope Vale. They had numerous non- Indigenous friends. During our reunions we all enjoyed many challenging debates.*
>
> *Three siblings graduated as teachers from JCU and taught all over Qld. Francis worked at various jobs then began Law studies. I pursued General Nursing initially, then later studied at JCU also. Francis never completed his legal studies as the Land Rights movement took up his time and energy. He spent most of his time with our Elders throughout Cape York. He had such an impeccable memory. He was passionate about our history, language, and our acceptance into the wider Australian society.*
>
> *During one of his trips to Shelburne Bay, he collapsed and was hospitalised. He had major surgery on his heart; and we noticed he wasn't the same since. He was then diagnosed with Diabetes. This shocked him. He was a health fanatic. He never smoked or drank alcohol in his life.*

[5] Ex C1.

My relationship with my brother was close- and we clashed from time to time. I greatly admired his knowledge and constant search for answers. Hope Vale community and those throughout Cape York respected him for his passion in his work with the Land Council and within our individual communities. Our mother had a loving close relationship with Francis throughout her life. He often referred to her during his low periods.

While in prison we spoke daily. My youngest daughter is a registered trauma nurse, and my background is in nursing also. We became involved in his healthcare plan, both in prison and when Francis was admitted to Mareeba hospital. Prior to that we were involved also after he left Cairns hospital and was transferred to Cooktown hospital. We were fully aware of his long-term prognosis.

Francis and I clashed over his decisions regarding his long-term health plan. I know he rejected the idea of being totally dependent on others. Despite my feelings about that-- I must respect his wishes. He entrusted me with the task of explaining that to his boys; and that was extremely difficult.

All my dealings with staff at Corrections, and in Mareeba hospital I can only applaud. They were overwhelmingly helpful, mindful and supportive. That was a comfort then-- and even today. Francis was given the best care.

16. Francis had a sporadic criminal history that commenced on 6 May 1976 when he was 23 years of age. He was sentenced to two years' probation in the District Court at Cairns in relation to one charge of unlawful carnal knowledge.[6]

17. On 25 July 2003, twenty-seven years later, Francis was fined $300 in the Cairns Magistrates Court in relation to one count of common assault.[7]

18. On 25 November 2022, Francis was sentenced in the District Court at Cairns to a head sentence of 2 years imprisonment, suspended for 9 months in relation to sexual offences.[8]

19. Francis had a history of Type 2 Diabetes Mellitus that spanned 20 years,[9] Ischaemic Heart Disease, Retinopathy, Chronic Kidney Disease, Hypertension, Bilateral venous ulcers.[10] In 2019, Francis underwent a triple coronary artery bypass graft.[11]

[6] Ex C1, p 1.
[7] Ex C1, p 1.
[8] Ex C1, pp 1 – 2.
[9] Ex F1, p 28.
[10] Ex F2, p 18.
[11] Ex F1, p 17; Ex F2, p 18.

20. In August 2022, Francis had an "*infected, obstructive right kidney due to either a potential stone or potential fungal ball*."[12] At that time Francis' kidney function had reduced to 30%.[13] Francis also developed sepsis during this admission.[14]

Care in custody

21. On 29 November 2022, Francis was received at LGCC.

22. On 4 December 2022, a code blue was called following reports that Francis was unable to get out of bed. Francis denied any shortness of breath or chest pain and was able to sit up with assistance. Francis reported that he felt better after a few minutes.[15]

23. On 12 December 2022, Francis attended an appointment at Cairns Base Hospital with an infected obstructed kidney which required a stent replacement.[16] During the appointment Francis underwent a ureteroscopy during which a number of fungal balls were removed. Francis was to have his stent removed in one week.[17]

24. On 16 December 2022, Francis was reviewed by Dr Margaret Purcell who noted he was a "*complex patient with carer in attendance. Long urology/sepsis admission 2022. Renal function not recovered. Prior to this an OPERA admission in 2019*."[18] Following a review of his medications and results, Francis was commenced on insulin, continence aids were arranged, and steps were taken towards a formal arrangement for a carer.[19]

25. On 19 December 2022, Dr Picot reviewed Francis one week after his stent replacement procedure.[20] On examination no strings were located, and Dr Picot spoke with a Urology Registrar who advised Francis should undergo a Kidney, Ureter and Bladder x-ray to locate the stent.[21]

26. On 30 December 2022, Francis was reviewed by Dr Purcell who noted that the stent was later located in Francis' cell[22] and that Francis advised "*that all his needs were being met*."[23]

27. On 2 and 4 January 2023, Francis had diabetic ulcers on both feet which were reviewed and treated in the medical clinic.[24]

[12] Ex F1, p 78.
[13] Ex F1, p 28.
[14] Ex B3 at [9].
[15] Ex F1, p 7.
[16] Ex F1, p 102.
[17] Ex F1, p 102.
[18] Ex B3 at [9].
[19] Ex B3 at [9]; Ex F1, pp 9, 17.
[20] Ex F1, p 17.
[21] Ex F1, p 17.
[22] Ex F1, p 18.
[23] Ex B3 at [10].
[24] Ex F1, pp 20 – 21.

28. On 3 January 2023, Francis attended a Cairns Hospital Urology Outpatients Clinic telehealth review with Dr Marc Huttman following his ureteroscopy procedure and stent exchange the previous month.[25] Dr Huttman explained that "*the cause of the obstruction back in August was a collection of fungal infection which is likely related to his diabetes*" and which were treated with antifungals. Dr Huttman recommended that Francis ensure his diabetes remained under control.[26]

6 January 2023 – Transfer to Mareeba Hospital

29. On 6 January 2023, Francis was reviewed by Dr Emma Clow and reported he had been unable to sleep and had experienced pain. On examination he was noted to be hot and sweaty with right renal tenderness[27] and was transported to the Mareeba Hospital with a possible bacterial kidney infection.[28] He was diagnosed with a urinary tract infection.[29]

30. Francis was admitted to the medical ward where he was treated with intravenous antibiotics and fluconazole.[30] A chest x-ray also ruled out right lower lobe pneumonia.[31]

31. On 12 January 2023, a CT scan of Francis' abdomen and pelvis that confirmed he had gallstones and not a bacterial kidney infection.[32] Francis was discharged back to LGCC.[33]

32. On 20 February 2023, Dr Purcell wrote to the Queensland Parole Board in support of an Exceptional Circumstances Parole application for Francis,[34] outlining his medical condition and that he would be better managed in the community.[35]

33. On 22 February 2023, Francis attended a Cairns Hospital Kidney Clinic telehealth review with Renal Specialist, Dr Archee Singh.[36] During the review, Francis reported unsteadiness on his feet due to numbness and periods of dizziness while lying and standing up.[37]

[25] Ex F1, pp 20, 78.
[26] Ex F1, p 78.
[27] Ex F1, p 21.
[28] Ex F1, pp 21, 99.
[29] Ex F2, p 16.
[30] Ex F1, p 99.
[31] Ex F1, p 80.
[32] Ex F1, p 79.
[33] Ex F1, pp 99 – 100.
[34] Ex B3 at [15].
[35] Ex B3, p 4.
[36] Ex F1, p 28.
[37] Ex F1, p 28.

34. Dr Singh noted that Francis' kidney function had decreased from 30% in August 2022 to 20% in February 2023 due to his Type 2 Diabetes Mellitus damaging his kidneys. Dr Singh spoke to Francis about undergoing dialysis, however, Francis declined.[38] Dr Singh recommended that Francis undergo a renal review every few months.[39]

35. On 19 April 2023, Francis attended a telehealth review with Cains Hospital Renal Consultant, Dr Ibrahim Ismail. Dr Ismail also spoke to Francis about commencing dialysis, however, he maintained his refusal. Dr Ismail noted that Francis did not have any uremic symptoms and recommended he be reviewed again in six weeks.[40]

36. On 31 May 2023, Francis attended a Nephrologist review during which it was noted that he had a slow kidney function decline and he reiterated that he did not want to undergo dialysis. A further review was booked in two months.[41]

37. On 26 July 2023, Francis was reviewed via telehealth by Cairns Hospital Nephrologist, Dr Catherine Wilkinson. Dr Wilkinson noted that Francis "*has maintained he does not wish to go down a dialysis treatment path for some time. He usually lives in Hopevale. He values being able to be in community and his experience with family on dialysis has been negative*."[42] During the review Francis reported that he had been suffering from fatigue and dizziness, and was unsteady on his feet.[43]

38. Dr Wilkinson reported that she would send Francis paperwork for an Enduring Power of Attorney and an Advanced Health Directive.[44] However, this was not completed prior to Francis' passing.[45]

<u>31 July 2023 – Transfer to Mareeba Hospital</u>

39. On 31 July 2023, a code blue was called after Francis was located unwell in his cell.[46] Two hours prior he had complained of nausea treated with oral maxalon.[47] Francis was taken to the medical unit[48] before he was transported as a Category 1 to the Mareeba Hospital with acute pulmonary oedema and respiratory distress[49]

[38] Ex F1, p 28.
[39] Ex F1, p 28.
[40] Ex F1, p 84.
[41] Ex F1, p 38.
[42] Ex F1, p 91.
[43] Ex F1, p 91.
[44] Ex F1, p 91.
[45] Ex B3 at [21].
[46] Ex D2, p 1.
[47] Ex F2, p 46.
[48] Ex F2, pp 26 – 30.
[49] Ex B2 at [9].

40. On arrival Francis was seen by Dr Picot, who noted that he had end stage renal failure and had refused to undergo dialysis.[50] Dr Picot confirmed, through questioning, that Francis still had capacity[51] and spoke to him about the consequences of his kidneys failing. However, Francis maintained his refusal to undergo dialysis.[52]

41. Dr Picot also discussed treatment measures including ICU admission, CPR and invasive ventilation, however noted, "*he understands that these treatments are unlikely to result in a good outcome, particularly neurologically intact survival, so he is in agreeance that these are not in his best interest*." The use of non-invasive ventilation was also considered, "*but given that initiation of this treatment would result in a transfer to Cairns, he would not like this either as he would prefer to be in the Mareeba community*."[53]

42. Francis' condition was also discussed with the on-call Cairns Hospital Renal Consultant, Dr Hakim, who agreed with the proposed course. It was recommended that a palliative approach be taken in the event of a decline in Francis' condition[54] and he was admitted for ward-based cares and intravenous medication only.[55]

43. Dr Picot assisted Francis in preparing an Acute Resuscitation Plan, which stated that he did not want defibrillation, CPR, intubation, ventilation, ICU admission, renal replacement therapy/dialysis.[56]

44. By the following morning, it was noted that Francis had not shown signs of significant improvement and would "*likely escalate to care of dying pathway*."[57] Francis requested that his family be contacted and advised of his condition.[58]

45. In the company of his family Francis showed some improvement. However, he developed a low fever and was given oral antibiotics for possible pneumonia. Francis again confirmed that he did not want to undergo dialysis.[59]

46. Dr Shelley Le Cong wrote to Superintendent, Gabrielle Payne at LGCC to advise that Francis had been admitted to Mareeba Hospital with end stage renal failure, acute pulmonary oedema, Type 2 Diabetes Mellitus and chest infection.[60]

[50] Ex F1, p 44; Ex F2, p 18.
[51] Ex F2, p 18.
[52] Ex F2, p 18.
[53] Ex F2, p 18.
[54] Ex F2, p 19.
[55] Ex F2, pp 19, 44.
[56] Ex F2, p 44.
[57] Ex F2, p 84.
[58] Ex B2 at [12].
[59] Ex B2 at [13].
[60] Ex F2, p 41.

47. That day Francis commenced the paperwork for an application for an exceptional circumstances parole order.[61] His sister was also contacted and was aware that Francis was unwell. His family indicated that they would travel from Cairns to see him.[62]

2 August 2023: Day of passing

48. On the morning of 2 August 2023, during a ward round with Dr Le Cong, Francis reported that he had experienced shortness of breath overnight but denied chest pain. A chest x-ray and blood test confirmed that Francis had developed pneumonia and he was commenced on intravenous antibiotics, which was consistent with the ward-based cares requested in his Acute Resuscitation Plan.[63]

49. However, Francis continued to decline and his ceiling of care was reached. Francis' family were advised that as there were no further treatment options available to him that "*he was placed on the care of dying pathway*."[64]

50. By approximately 5:00pm that day, Francis was not responding to treatment, however, said he wished to continue with antibiotics until his family arrived.[65] Francis' sister was contacted and was advised that he would likely pass that night.[66]

51. By approximately 7:55pm, Francis' sister was at his bedside[67] and remained there until he passed.[68] Francis was declared life extinct at 8:36pm by Dr Preety George.[69]

[61] Ex F2, p 42.
[62] Ex F2, p 84.
[63] Ex B2 at [14]; Ex F2, p 44.
[64] Ex B2 at [15].
[65] Ex F2, p 94.
[66] Ex F2, p 94.
[67] Ex F2, p 95.
[68] Ex F2, p 96.
[69] Ex F2, p 7.

Forensic Medicine Queensland advice

52. As Francis and refused to undergo dialysis to treat his chronic kidney disease, I sought advice from Forensic Medicine Queensland as to the appropriateness of the medical treatment provided to Francis, whether medical practitioners took adequate steps to speak to Francis regarding the consequences of refusing dialysis, and whether the refusal to undergo dialysis hastened Francis' passing.

53. On 22 February 2026, Forensic Physician Dr Amy Weber provided an advice and did not raise any concerns in relation to the healthcare provided to Francis whilst in custody at LGCC, noting "*The care provided by LGCC was appropriate based on the information in the brief. Mr Deemal [Francis] was regularly reviewed by clinical staff, and specialist advice from the urology and renal teams appears to have been followed at LGCC. Regular outpatient assessment by specialist renal physicians and urologists were facilitated by nursing staff at LGCC*."[70]

54. Dr Weber was also satisfied that the care provided to Francis whilst an inpatient at Mareeba Hospital was appropriate and noted that Francis "*continued to be reviewed as an outpatient for ongoing support*."[71]

55. Dr Weber also noted that despite being offered dialysis on a number of occasions by multiple practitioners, Francis "*was consistent in declining renal dialysis despite the risks being explained to him*."

56. Dr Weber also noted that there were no concerns in relation to Francis' capacity to refuse treatment, stating "*Given the clear and consistent wishes expressed by Francis, and considering his capacity to make medical decisions, in my opinion it would have been unethical to proceed with dialysis. To do so would have been to disregard the autonomy of this patient.*"[72]

57. Dr Weber concluded that while Francis' refusal to undergo dialysis may have hastened his death, given his recurrent urosepsis, he remained a high risk of death by sepsis.[73]

58. I accept the advice of Dr Weber.

[70] FMQ advice, p 5.
[71] FMQ advice, p 5.
[72] FMQ advice, pp 5 – 6.
[73] FMQ advice, p 6.

Autopsy results

59. On 7 August 2023, Forensic Pathologist Dr Paul Botterill conducted an autopsy consisting of an external examination of the body.

60. Dr Botterill found that:[74]

> *… the cause of death was the consequences of chronic kidney disease on a background of diabetes and atherosclerotic cardiovascular disease, but the possible contribution of drug toxicity or otherwise unidentified natural pathology were impossible to exclude. Further investigations were subsequently performed. Testing for drugs and poisons showed the presence of a pain killer (paracetamol), an antinausea agent (metoclopramide), blood pressure medication (amlodipine) and a heart failure fluid loss agent (frusemide), all at blood levels below the reported potentially toxic ranges. No other drugs, including alcohol, were detected.*

61. Dr Botterill concluded that Francis' cause of passing was Chronic Kidney Disease with Atherosclerotic cardiovascular disease and Diabetes Mellitus listed as significant conditions.[75]

Conclusions

62. I am satisfied that Francis died from natural causes. I find that none of the inmates, correctional or health care staff at Mareeba Hospital or LGCC caused or contributed to his death. There were no suspicious circumstances.

63. 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. The evidence tendered at the inquest established the adequacy of the health care provided to Francis when measured against this benchmark.

[74] Ex A3, p 10.
[75] Ex A3, p 10.

Findings required by s. 45

64. 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 the evidence, including the material contained in the exhibits, I am able to make the following findings:

(a) Who the deceased person is:	Francis Lex Deemal.
(b) How the person died:	Francis was serving a term of imprisonment at Lotus Glen Correctional Centre. Francis had a history of Type 2 Diabetes Mellitus, severe loss of kidney function and a previous quadruple bypass. While in custody, Francis's condition deteriorated. However, he declined to undergo dialysis on multiple occasions. Francis passed at the Mareeba Hospital. He had been transferred there on 31 July 2023.
(c) When the person died:	2 August 2023.
(d) Where the person died:	Mareeba Hospital.
(e) What caused the person to die:	1(a) Chronic Kidney Disease *Other significant conditions* 2 Atherosclerotic cardiovascular disease; Diabetes Mellitus

Comments and recommendations

65. Section 46 of the Act 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.

66. In the circumstances, I accept that there are no comments or recommendations to be made that would assist in preventing similar deaths in the future, or that otherwise relate to public health or safety or the administration of justice.

67. I extend my condolences to Francis' family and friends.

68. I close the inquest.