



FINDING OF INQUEST

An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 29th day of July, the 19th day of August, the 2nd day of September 2011 and the 19th day of August 2013, by the Coroner's Court of the said State, constituted of Anthony Ernest Schapel, Deputy State Coroner, into the death of Ronald Geoffrey Weeks.

The said Court finds that Ronald Geoffrey Weeks aged 84 years, late of Yatala Labour Prison, 1 Peter Brown Drive, Northfield, South Australia died at the Royal Adelaide Hospital, North Terrace, Adelaide, South Australia on the 20th day of September 2009 as a result of respiratory failure due to hospital acquired pneumonia. The said Court finds that the circumstances of his death were as follows:

1. Introduction, cause of death and reason for Inquest

- 1.1. Mr Ronald Geoffrey Weeks was a man who for the first time in his life was imprisoned at the age of 81 years. His imprisonment arose from 23 convictions for sexual offences committed against 7 young boys in the period between 1957 and 1979. It is well known that many of these prosecutions for so-called historic sexual offences have as their genesis the fact that the legislature removed the statutory time limit for the prosecution of perpetrators of sexual offences. A consequence of this is that these prosecutions not infrequently occur many years after the subject offences were committed and are commonly instituted against the elderly. Mr Weeks is a case in point. The sentencing remarks of Justice Kelly¹ contain no suggestion that during

¹ Exhibit C16n

the course of Mr Weeks' life he had been brought before Courts for any offending other than in respect of the sexual offences committed between 1957 and 1979.

- 1.2. Mr Weeks' term of imprisonment was one of 8 years with a non parole period of 4 years and 6 months commencing on the day on which the sentence was imposed, namely 16 June 2006. At the time Mr Weeks was sentenced it was noted by Justice Kelly that his state of health was at that time consistent with what one would expect of a man of 81 years of age. However, regardless of the current state of his health at that time, the length of Mr Weeks' sentence, and in particular the non parole period, carried with it the possibility that Mr Weeks would die in prison and the prospect that he would suffer a decline in health requiring management in the period leading to his death. In the event this is what transpired in respect of Mr Weeks.
- 1.3. Mr Weeks died on 20 September 2009 at the Royal Adelaide Hospital (RAH). He was by then 84 years of age. The cause of his death was said to be respiratory failure due to hospital acquired pneumonia and I so find². It will be observed that as with other hospital acquired infections, the acquisition of pneumonia in a hospital setting is not uncommon, does not of itself necessarily imply neglect and in this case does not appear to have any direct connection with the custodial circumstances of Mr Weeks. With a number of concerns expressed on behalf of Mr Weeks' family regarding his management at the RAH, particularly in respect of periods of time out of bed, I received into evidence the affidavit of Mr Paul McLeish who a registered nurse of considerable experience and who is the Clinical Services Coordinator of the RAH ward in which Mr Weeks was a patient. Mr McLeish's affidavit explains the need for patients with health issues such as those of Mr Weeks to sit outside of their bed regularly to increase mobility, to reduce the incidence of deep vein thrombosis, to avoid the development of pressure ulcers and to mitigate the risk of the development of pneumonia by improving the patient's ability to expectorate. I accepted Mr McLeish's analysis of the situation.
- 1.4. Mr Weeks was still serving his sentence at the time of his death. He would have become eligible for parole at some time during 2010. Due to the fact that Mr Weeks died while still serving his sentence, his was a death in custody in respect of which an Inquest into the cause and circumstances of his death was mandatory pursuant to the

² Exhibit C17

provisions of the Coroners Act 2003. I find that at all material times Mr Weeks' custody was lawful.

- 1.5. Prior to Mr Weeks' death, the possibility of Mr Weeks serving the last portion of his non parole period in home detention, and not in actual Department for Correctional Services custody, was a matter that Mr Weeks' family explored. I understand that having regard to the nature of Mr Weeks' offending, this course of action was rejected by Government as it is entitled to do pursuant to the provisions of the Correctional Services Act 1982. It is generally not for this Court to question correctional policies of this nature. Accordingly, this Court did not investigate the issue and I make no formal finding or comment in that regard except to make the obvious point that the inevitable consequence of such a policy will be that elderly prisoners will decline and die more frequently in prison than might otherwise be the case and that their care needs will need to be met within the correctional system as distinct from within the general community.

2. Background

- 2.1. Mr Weeks was initially incarcerated at the Yatala Labour Prison (YLP) where he remained until he was transferred to the Mount Gambier Prison on 11 August 2006. He remained in the Mount Gambier Prison until early 2009.
- 2.2. When Mr Weeks entered the South Australian prison system his current medical status included diabetes, ischaemic heart disease, high blood pressure, hearing loss, hiatus hernia, gastroesophageal reflux and prostate problems. He had been prescribed various medications in relation to those issues. He reportedly required a walking stick to mobilise. It is apparent that he also entered the prison system with a level of depression for which he was prescribed Zoloft.
- 2.3. Thereafter there appears to have been a steady decline in Mr Weeks' health. He would experience chest pain, undergo a diagnosis of interstitial pulmonary fibrosis and suffer falls. By April 2008 Mr Weeks was complaining of significant fatigue, weakness and lack of appetite. On 29 December 2008 it was reported that he wanted to die.
- 2.4. In March 2009 it was reported that Mr Weeks was weak and frail and now required the aid of a wheelchair to attend the health centre at Mount Gambier Prison. On 25

March 2009 Mr Weeks was transferred to the YLP on the recommendation of Dr Letitia Kavanagh³ who reported in writing that Mount Gambier Prison could not provide Mr Weeks with appropriate care. Dr Kavanagh had been responsible for the care of Mr Weeks since August 2006. By letter dated 16 March 2009, Dr Kavanagh wrote to the Prisoner Assessment Unit describing Mr Weeks numerous medical conditions. She asserted that since his arrival at Mount Gambier Prison he had been *'a frail, depressed gentleman who has low motivation'*. She described his steady decline and the attempts at optimising his medical conditions. She described Mr Weeks' current state of frailty as severe such that officers of the prison had noted his decline and had on many occasions expressed their concerns about Mr Weeks. Dr Kavanagh expressed a strong opinion in the letter that despite their best efforts, Mr Weeks was no longer suitable to be managed at the Mount Gambier Prison having regard to the fact that his required levels of care were intensive. She described difficulty in Mr Weeks' ability to perform his day to day tasks and mentioned adverse incidents. Dr Kavanagh concluded her letter with the following paragraph:

'My recommendation would be that Mr Weeks is no longer suitable to be managed at Mount Gambier Prison, and that his frailty, unsteadiness and cognitive deterioration have got to a level where he should be in a more suitable facility. We have worked extremely hard to manage Mr Weeks for as long as we are able, and I do not make these comments lightly having never had to make such remarks regarding the care of an elderly prisoner in my five years of employment at this prison.

I would greatly appreciate your assessment of Mr Weeks' case and his transfer to a more suitable facility as soon as possible.'

- 2.5. Upon arrival at YLP Mr Weeks was noted to be incontinent and frail and was placed in the health centre.
- 2.6. In April 2009 a mini mental state test revealed a level of cognition consistent with moderate to severe dementia. A psychiatric assessment was to the same effect.
- 2.7. A recommendation was made that Mr Weeks be assessed by the aged care psychiatric services.
- 2.8. On 4 May 2009, Mr Weeks was sent to James Nash House for the aged care assessment. James Nash House is a Department for Correctional Services psychiatric facility.

³ Exhibit C19

2.9. The statement of Dr William Brereton, a Consultant Forensic Psychiatrist employed by Forensic Mental Health Service at James Nash House⁴, describes Mr Weeks' time within James Nash House. Dr Brereton states that Mr Weeks presented as a frail old man with clear cognitive deficits and was disorientated with significantly impaired memory of recent events. He was admitted to James Nash House to facilitate a neuropsychological assessment and to obtain an assessment from the aged care psychiatric services. Dr Brereton's plan was to return Mr Weeks to prison after the assessments had been completed. Dr Brereton explains that he needed to obtain a base line assessment as well as a second opinion in order to help guide Mr Weeks' management. In addition, potential future options for Mr Weeks' care once released on parole needed to be the subject of assessment. The aged care psychiatric team agreed with a diagnosis of Alzheimer's dementia. Mr Weeks' numerous physical illnesses were also recognised. While in James Nash House, Mr Weeks complained of low mood and tiredness, but when interviewed he appeared to be quite affable and cheerful. In due course, following the assessments, arrangements were made to return Mr Weeks to prison and the aged care psychiatric team recommended a formal aged care assessment be carried out prior to his ultimate release from prison.

3. Mr Weeks' fall at James Nash House and his admission to the RAH

3.1. Events were overtaken by the fact that at James Nash House on 22 June 2009, the day that Mr Weeks was due to be transferred back to prison, he fell in the shower and fractured his hip. At that point he was transferred to the Royal Adelaide Hospital. He would remain at the Royal Adelaide Hospital until his death on 20 September 2009. On one view of the matter, Mr Weeks' fall at James Nash House, his resultant injury and the surgery and hospitalisation consequent upon that injury were all material events in the sequence of events culminating in Mr Weeks' death at the Royal Adelaide Hospital. With that in mind, the circumstances surrounding Mr Weeks' fall within James Nash House were the subject of investigation by SAPOL. Members of James Nash House nursing staff were interviewed and statements were taken from them. As well, the Court has been provided with a police statement of witness as well as a subsequent affidavit from Mr John Pirc⁵ who was at the material time the Associate Clinical Services Coordinator at James Nash House. From the material thus gathered the Court's conclusions are as follows. Mr Weeks had elected to take a

⁴ Exhibit C12a

⁵ Exhibit C10a and C10b

shower late in the morning of the day in question. The shower was only a matter of metres from the nurses station. I accept the evidence that although Mr Weeks was not the subject of constant scrutiny within the shower, his welfare was checked from time to time. As well, he was provided with a seat in which he could take his shower. There were also handrails within the shower for added safety. The affidavit of Mr Pirc explains that Mr Weeks habitually showered daily by himself while at James Nash House. He could stand and ambulate without nursing assistance. On the occasion in question the door had been left open, although it is normally closed, so that nurses could periodically check his welfare. Mr Pirc explains that there was a need to balance Mr Weeks' right to privacy and independence against his frailty. The assessment had been that Mr Weeks did not require constant supervision within the shower. I do not understand there to have been any other incidents involving the shower whilst Mr Weeks had been accommodated within James Nash House. According to Dr Brereton, Mr Weeks told him that he had simply slipped over while exiting the shower.

- 3.2. Mr Weeks' admission to the Royal Adelaide Hospital, his decline and ultimate demise are described in the statement of Dr Christopher Roberts who at that time was a medical practitioner employed at the Royal Adelaide Hospital. Dr Roberts statement⁶ explains that Mr Weeks underwent internal fixation of his hip fracture under general anaesthetic on 23 June 2009. The procedure and post-operative period in the first instance was uneventful, although he was slow to mobilise post-operatively. Mr weeks was assessed by the Aged Care Assessment Team (ACAT) team on 8 July 2009 and due to his poor cognitive state and then poor mobility it was deemed inappropriate for him to return to James Nash House or to the infirmary at YLP. Dr Roberts makes the pertinent observation that unfortunately there is no high level care facility with appropriate security within the corrections system and so he had to remain at the Royal Adelaide Hospital.
- 3.3. Mr Weeks' surgical wound became infected so he was taken back to theatre on 24 July 2009 for wound debridement under general anaesthetic. He was also placed on long term oral antibiotics. His wound infection ultimately settled with treatment.
- 3.4. On 25 July 2009 Mr Weeks was diagnosed with a myocardial infarction that was treated with oxygen therapy and anticoagulation.

⁶ Exhibit C5a

- 3.5. On 5 August 2009 it was noted that Mr Weeks had been colonised with another infection. On 2 September 2009 he developed gastroenteritis associated with a norovirus infection. This settled with conservative management.
- 3.6. From 9 September 2009 Mr Weeks developed increasing shortness of breath. Following a CT pulmonary angiogram, he was diagnosed with hospital acquired pneumonia on a background of pulmonary fibrosis. He was treated with intravenous antibiotics but unfortunately failed to respond. Mr Weeks continued to deteriorate and after discussion with the Public Advocate on 16 September 2009, Mr Weeks was deemed to be not for resuscitation. He deteriorated further despite treatment and was pronounced deceased at 10:55am on 20 September 2009.

4. Management of elderly prisoners

- 4.1. Dr Peter Frost the Clinical Director of the South Australian Prison Health Service in his statement⁷ makes a number of general comments about Mr Weeks' experiences in the correctional system, particularly as far as the management of his health is concerned. I point out there does not appear to be any evidence to suggest that Dr Frost was personally involved in Mr Weeks' treatment or management. Nevertheless, Dr Frost has voiced several opinions about the manner in which elderly prisoners are able to be managed within the correctional services system. Dr Frost points out that there is no system for a formal aged care assessment of elderly prisoners. He suggests that the ACAT assessment possibly should have occurred much earlier as Mr Weeks' cognitive decline could have been detected much earlier and medication commenced for it then. In the event, the request for the ACAT assessment only seems to have been initiated after psychiatric recommendations in April 2009. He also points out that none of the cells in the YLP are set up to accommodate the kind of health issues that Mr Weeks suffered from, and that is why he was accommodated within the infirmary, a place not in itself the most appropriate place for elderly persons requiring particular care for certain medical or health issues. In a letter subsequently provided to the Court⁸, Dr Frost is more specific in his expressions of frustration in respect of elderly prisoners who are consumers of the prison health service. He points out that neither South Australian Prison Health Service nor the Department for Correctional Services have a formal system to proactively assess the needs of elderly prisoners or

⁷ Exhibit C13a

⁸ Exhibit C13b

prisoners with significant disabilities. Dr Frost is firm in his view that there should be specific assessment processes for such prisoners. He refers to the development of Joint Systems Protocols to address the deficiency. I return to this matter in a moment. Dr Frost also points out that neither the South Australian Prison Health Service nor the Department for Correctional Services have the staff, facilities or resources to care for elderly patients requiring intensive residential care support. Correctional Services has no facility to safely accommodate prisoners with significant disabilities or those requiring intensive assistance with the activities of daily living. Dr Frost refers to the planning of a special needs unit in the YLP. I return to that matter also. He points out that when the prison system cannot safely accommodate an elderly prisoner the only option is to find alternative placement in the general community. However, that is a complex process that requires ACAT assessment for approval for placement in a nursing home. As well, approval through the Minister for Correctional Services to have the patient released from prison is also required. In this case, there was no such approval due to the nature of the offending involved. In any event an ACAT assessment does not alter what Prison Health or Correctional Services are able to provide in prison.

- 4.2. Tendered to the Court was the affidavit of Mr David Brown⁹ who was Executive Director, Custodial Services for the Department for Correctional Services. Mr Brown is responsible for executive oversight of all operational prisons in South Australia and along with other members of the Department executive is responsible for the creation, implementation and review of prison policies and procedures. Relevantly, for the purposes of this Inquest, Mr Brown annexed to his affidavit a number of documents concerned with the management of elderly prisoners within the South Australian prison system. One such document is a briefing paper prepared by Mr John Dawes PhD, a former Public Advocate in South Australia. The paper is entitled '*Caring for an Ageing Prisoner Population*'¹⁰. In that paper Mr Dawes has referred to the likelihood that all Australian correctional systems will face the challenge of caring for increasing numbers of elderly prisoners in the next few years, primarily due to the proliferation of "historic" sexual offence prosecutions. Mr Weeks of course is a case in point. Mr Dawes refers to a number of the concerns that have also been raised independently by Dr Frost. Mr Dawes added that finding solutions for what will be

⁹ Exhibit C26

¹⁰ Exhibit C26 – Annexure DB-1A Dawes

the increasing health care needs of ageing prisoners occurs in a problematic environment. He refers to waiting times for some procedures in hospital being prolonged and other difficulties including the fact that ageing prisoners are likely to suffer strokes, senility and especially dementia. Terminally ill prisoners who will die before release, as was the case with Mr Weeks, present particular difficulties where the challenge will be to offer the trained holistic approach seen in well developed palliative care services. Mr Dawes suggested that the model of palliative care that applies within the general community should be applicable within prisons. Mr Dawes acknowledged that although the more preferable course is to transfer dying prisoners to a community hospice facility, there will be some prisoners whom the responsible government would not be prepared to release. Mr Weeks is again an example. Mr Dawes identified a need to develop appropriate means of providing good end of life care within the prison system.

- 4.3. I have already referred to what Dr Frost in his letter described as the need to develop Joint Systems Protocols. The affidavit of Mr Brown annexes a Department for Correctional Services policy 0274 - Aged Prisoner Care¹¹. This document describes a number of aspirational objectives concerning the management of aged prisoners as far as their health and wellbeing is concerned, including end of life management.
- 4.4. Also annexed to Mr Brown's affidavit is the Joint Systems Protocol between the South Australian Prison Health Service and the Department for Correctional Services and the Department of Health. The Protocol is designed to ensure that health services needs of prisoners are met. This document is not confined to considerations involving the care of aged prisoners, but it does refer to the question of terminal illness, the purpose of that part of the document being to ensure compliance with the Department for Correctional Services and South Australian Prison Health Service operation practices and policies in providing appropriate health care and management to prisoners who develop and are in the final stages of a terminal illness. This part of the documents calls for the development of a joint management plan addressing general care in prison, palliative care in prison and palliative care in the community.
- 4.5. Mr Brown's affidavit also describes planning for a high dependency unit to be built at YLP that will be a multi-faceted and multi-functional integrated unit to provide specialist mental health assessment and treatment services to prisoners experiencing

¹¹ Exhibit C26 DB-1

mental health and personality disorders and aged related health and mobility and/or cognitive impairment, for example, dementia. The high dependency unit was planned to be supported by a new purpose built health centre, the construction of which was to commence in mid 2012. The high dependency unit itself was planned to commence construction in late 2012.

- 4.6. Accordingly, I do not need to make any formal recommendation but would urge the Department for Correctional Services, the South Australian Prison Health Service, the Minister for Correctional Services and the Minister for Health and Ageing to continue to promulgate policies that promote appropriate care for an ageing prison population. I would also regard it as appropriate that the high dependency unit and health centre that were planned for construction in 2012 be constructed and completed as soon as possible.
- 4.7. I draw attention to the delivery of my Findings on the same day in the matter of the death of a prisoner John William Moxon¹² in which similar issues are discussed.
- 4.8. Finally, I indicate that I had regard to the contents of and attachments to the letter of Mr Colin Neass who wrote to the Court on behalf of Mr Weeks' widow. Many of the concerns expressed in that documentation were addressed in the affidavit of Mr McLeish to which I have already referred and would be addressed by the implementation of the initiatives described in the preceding paragraphs.

Key Words: Death in Custody; Natural Causes

In witness whereof the said Coroner has hereunto set and subscribed his hand and

Seal the 19th day of August, 2013.

Deputy State Coroner

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¹² Inquest 5/2013