



FINDING OF INQUEST

An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 30th day of April, the 11th day of June and the 12th day of October 2020, by the Coroner's Court of the said State, constituted of Simon James Smart, Deputy State Coroner, into the death of Sina Babakhani.

The said Court finds that Sina Babakhani aged 21 years, late of 49A Rosewater Terrace, Ottoway, South Australia died at Ottoway, South Australia on the 5th day of September 2016 as a result of heroin toxicity. The said Court finds that the circumstances of his death were as follows:

1. Introduction and cause of death

- 1.1. Mr Sina Babakhani was born on 20 January 1995 and died at his place of residence in Ottoway on 5 September 2016 aged 21 years. Mr Babakhani's body was identified by his father Mr Abolfazl Babakhani¹.
- 1.2. A post-mortem examination of Mr Babakhani's remains was undertaken by forensic pathologist, Dr John Gilbert at Forensic Science South Australia. In his report of that examination Dr Gilbert provided the cause of death as heroin toxicity², and I so find.
- 1.3. A toxicological analysis of a sample of Mr Babakhani's blood and urine found the presence of morphine, codeine and mono-acetyl-morphine, consistent with heroin use. The blood also contained low levels of delta 9-THC which can be attributed to previous use of cannabis³.

¹ Exhibit C1 Form PD44

² Exhibit C2

³ Exhibit C3

2. **Reason for inquest**

- 2.1. Mr Babakhani's death was the subject of a mandatory inquest pursuant to Section 21(1)(a) of the Coroners Act 2003 as Mr Babakhani was under home detention at the time of his death. I set out the circumstances of his incarceration and home detention bail⁴.
- 2.2. On 17 October 2015 police received a complaint from an acquaintance of Mr Babakhani alleging she had woken up to find Mr Babakhani sexually assaulting her. On 22 October 2015 he was arrested and charged with rape. He was remanded in custody at the Adelaide Remand Centre. This was his first time in custody.
- 2.3. On 11 November 2015, having spent 20 days on remand, he was released on home detention bail to live with his father at the address in Ottoway. On 6 January 2016, whilst on home detention, he was arrested and charged with an alleged aggravated assault at West Lakes Shopping Centre. On that occasion it was alleged he grabbed a child by the arm. Mr Babakhani was not authorised to be at the West Lakes Shopping Centre and was remanded into custody at Yatala Labour Prison.
- 2.4. On 1 April 2016 Mr Babakhani was released on home detention bail. On 1 June 2016, whilst on home detention, the Department for Correctional Services (DCS) carried out a mandatory urine test. On 7 June 2016 the result of the test revealed the presence of heroin. On 8 June 2016 Mr Babakhani was returned to Yatala Labour Prison for breaching bail. On 16 June 2016 he was released for the third time on home detention bail.
- 2.5. Whilst on home detention bail Mr Babakhani's supervisor was advised that Mr Babakhani did not have the permission of the property owner (Anglicare) to reside at the Ottoway address as the property was not in his name⁵. Mr Babakhani was promptly advised of this fact, which was reiterated to him over the next two weeks. He was told that he must vacate the premises and that he was liable to arrest. Ultimately he was advised on 25 August 2016 that if he did not vacate the premises by 26 August 2016 an application would be lodged with the District Court to revoke his bail. On 30 August 2016 the following entry is noted in the DCS records:

'Email received from ... of Anglicare who is unhappy about Sina being in their property which is leased to Sina's father ... approved course of action is for me to contact senior

⁴ Exhibit C11, pages 4-7 and Exhibit C14

⁵ Exhibit C14, Running sheet entry dated 15 August 2016

management in Anglicare and confirm that it is Anglicare's official position that they do not want Sina in the property, then for DCS to submit a Form 7 to the Court stating that Anglicare do not want Sina at the property and the reasons why, and then the Court can (sic) a date to hear the matter and make a decision on the issue. DCS role is to facilitate the matter being brought back to the Court, but it is not the role of DCS to evict Sina from the property.'⁶

Subsequently an application to revoke bail was lodged by DCS with the application to be heard on 6 September 2016.

2.6. I have received and considered the written submissions of Mr Henderson, counsel for Mr Babakhani's father. I do not agree that the manner in which DCS supervised Mr Babakhani's home detention bail was improper, inappropriate or otherwise calls for criticism. As those responsible for such supervision it is apparent that DCS promptly brought the issue to Mr Babakhani's notice. They advised him of a genuine possibility, namely that he was at risk of arrest as he was unable to satisfy his bail conditions. They did not act precipitately, but gave Mr Babakhani opportunity to address the issue before indicating on 25 August 2016 their intention to bring an application to revoke bail. It is noteworthy that Mr Babakhani appears to have then taken immediate advice from Mr Henderson who was acting for him. Mr Henderson was in correspondence with DCS the following day. It is clear to me from the entry on 30 August 2016 that DCS correctly perceived their role in bringing such an application and I see no reason to criticise that decision. I am not persuaded to adopt the recommendations proposed by Mr Henderson.

2.7. Mr Babakhani remained on home detention until his death on 5 September 2016.

3. Background and medical history

3.1. Mr Babakhani's background has been gleaned from the various witness statements obtained during the course of the coronial investigation, along with his medical records.

3.2. On 1 October 2011 Mr Babakhani, aged 16, migrated to Australia with his father as refugees. They left behind his mother and sister⁷.

⁶ Exhibit C14

⁷ Exhibit C8, page 2

- 3.3. Mr Babakhani commenced studies at TAFE but was unable to manage and dropped out. His father states he secured employment for a short period in a factory in Port Adelaide. Overall, it appears he was in receipt of government support payments⁸.
- 3.4. In 2015 he confided to his father that he had been using heroin and asked for his help. His father immediately took him to Grand Health Medical Centre in Rosewater to consult a doctor⁹.
- 3.5. Dr Arto Kartika
Dr Arto Kartika practices at Grand Health Medical Centre and provided a statement to the Court¹⁰. Dr Kartika stated that Mr Babakhani first presented on 2 June 2015 with his father seeking help with heroin addiction. On that day he was seen by Dr Lim.
- 3.6. He told Dr Lim he had been a heroin user for the past 12 months. Dr Lim discussed a drug replacement program and referred him to Dr Kartika who was an authorised prescriber by the Drugs of Dependence Unit at SA Health.
- 3.7. On 4 June 2015 Mr Babakhani saw Dr Kartika. He informed Dr Kartika he had been using approximately \$600 to \$750 worth of heroin per day for the past year. In the previous month, he had managed to reduce his usage to approximately \$150 per day. It is unclear how he funded his heroin use.
- 3.8. Dr Kartika assessed Mr Babakhani to be a heavy heroin user and was granted approval for Mr Babakhani to enter a methadone program. Mr Babakhani was prescribed 30mg of methadone per day which was to be dispensed in person at Amcal Pharmacy in St Clair. Mr Babakhani thereafter continued to attend Dr Kartika's practice and he managed his program.
- 3.9. On 4 September 2015 he was seen by Dr Tuck Yean Yong, who noted Mr Babakhani was not coping well with his opiate withdrawal and had reverted to using heroin. He was referred to psychologist, Dr Susan Lau.
- 3.10. Dr Kartika continued to see Mr Babakhani on a regular basis to assess and adjust his methadone intake. In June 2016 Mr Babakhani was switched to a Suboxone film as an alternative to the methadone treatment. Dr Kartika noted the Suboxone film was effective.

⁸ Exhibit C8 page 2

⁹ Exhibit C1d Page 2

¹⁰ Exhibit C7

- 3.11. Dr Kartika stated he was aware from the consultation notes of psychologist Ms Lau that Mr Babakhani had underlying issues of PTSD, anxiety and depression.
- 3.12. Mr Babakhani last visited Dr Kartika on 16 August 2016 to assess his suboxone prescription.
- 3.13. Ms Susan Lau
Psychologist Susan Lau, who also practiced from Grand Health Medical Centre, provided a statement¹¹ setting out in detail her interaction with Mr Babakhani.
- 3.14. On 15 September 2015 she saw Mr Babakhani for the first time. He presented with issues of depression and drug addiction. Mr Babakhani received counselling from Ms Lau between 15 September 2015 and 10 May 2016.
- 3.15. Ms Lau states Mr Babakhani was experiencing repeated disturbing memories, sleep disturbance, angry outbursts, concentrating difficulties, hypervigilance and startle reaction. He presented as unstable, confused and vulnerable. He expressed a feeling of hopelessness and not wanting to be alive.
- 3.16. Ms Lau diagnosed Mr Babakhani with PTSD with depressed mood and anxiety. Mr Babakhani's treatment included Cognitive Behavioural Therapy (CBT) which encompassed grounding, keeping an anchor, remaining in the 'here and now' state, mindfulness breathing and diffusion strategies.
- 3.17. Due to reported symptoms of flashbacks, hallucinations and dissociation which was corroborated by his father, Ms Lau recommended an urgent psychiatric review. She believed he was at a high degree of risk; and further incarceration would likely exacerbate his mental condition. Dr Kartika referred Mr Babakhani to psychiatrist Dr Edward Kokoang.
- 3.18. Psychiatrist Dr Kokoang
Dr Edward Kokoang, psychiatrist, wrote to Dr Kartika on 18 May 2016¹² setting out his assessment and action plan. Dr Kokoang stated Mr Babakhani showed features of major depression that was likely to respond to medication. He also made a deferential diagnosis of adjustment disorder and stated that Mr Babakhani needed to deal with his underlying PTSD and opiate dependence.

¹¹ Exhibit C8

¹² Exhibit C12

3.19. Mr Babakhani's action plan was to continue to engage with DASSA, to take his prescribed medication and to be reviewed in four weeks. There is no record of any further consultation.

3.20. Ms Georgie Mumford

There is evidence that Mr Babakhani continued to take illicit drugs whilst receiving assistance from Dr Kartika and Ms Lau.

3.21. In July 2015 Mr Babakhani met and befriended Ms Georgie Mumford who provided a statement to the Court¹³. Ms Mumford was 16 years old at the time. Ms Mumford states their relationship was not romantic or sexual in nature, but they were close and saw each other almost daily. They would regularly smoke cannabis.

3.22. In mid-September 2015, some three to four weeks prior to his first remand in custody, Ms Mumford became aware that Mr Babakhani was using heroin. She would often wait in his car while he attended a house in a nearby suburb and return with drugs. She states he was also able to purchase drugs, including ecstasy and cannabis, from two households on his street. The purchase of drugs which Ms Mumford allegedly witnessed occurred whilst Mr Babakhani would have been on the methadone program.

4. Mr Babakhani's custody

4.1. Department for Correctional Services records for Mr Babakhani were obtained by the Court¹⁴. When first remanded in custody he was initially interviewed and monitored by the High Risk Assessment Team (HRAT). In those consultations he denied any current suicidal ideation or thoughts of self-harm, but stated that he would become agitated and frustrated if he did not receive his methadone dose.

4.2. In a later interview Mr Babakhani disclosed that he had been 'roughed up' by other prisoners on at least four occasions. This was after he had revealed his charge of rape. He was advised not to reveal his charges.

4.3. Mr Babakhani was released on bail on 11 November 2015 and appeared to be compliant with his home detention passes.

4.4. When remanded into custody for the second time on 6 January 2016 for the allegation of aggravated assault of a child, the Yatala Labour Prison remand admission checklist

¹³ Exhibit C6

¹⁴ Exhibit C14

dated 7 January 2016 recorded that Mr Babakhani disclosed self-harm a month prior whilst in SAPOL custody. He was kept on camera observations and monitored by HRAT.

4.5. On 18 January 2016 Mr Babakhani was recorded saying 'I need to stay alive for my father'. Mr Babakhani denied any thoughts or attempts at self-harm. He remained on HRAT monitoring until 5 February 2016 when he was considered to be low risk of suicide and self-harm.

4.6. Assault by prison officers

Within the material provided to the Court are suggestions made by Mr Babakhani that he had been assaulted by prison guards whilst in custody. Firstly, in Dr Kokoaung's letter dated 18 May 2016 there is reference to Mr Babakhani complaining he had been assaulted nine times by prison officers while in G division¹⁵. Secondly, Mr Babakhani complained to his father he had been harassed, beaten up and dragged by his legs to his cell by prison officers. He had been beaten until he bled. He told his father his cell would be water hosed and that he was naked at the time with no pillow. He told his father he had been raped whilst in custody but there is no mention by whom¹⁶.

4.7. The DCS file discloses no evidence of Mr Babakhani complaining of being assaulted or harassed by prison officers. There is also no complaint of being raped whilst in custody. There is no evidence of him receiving any medical treatment for assault occasioned by prison officers or prisoners.

4.8. Mr Henderson, counsel for Mr Babakhani's father, brings to the Court's attention the following facts:

- 1) Following his release from custody on 16 June 2016 Mr Babakhani made a complaint to DCS of having been assaulted by a certain prison officer whilst in custody on 10 June 2016;
- 2) That an internal investigation by DCS found the allegation substantiated and reprimanded the prison officer with a reduction in remuneration;

¹⁵ Exhibit C12

¹⁶ Exhibit C1d page 4

3) A review of that decision was sought by the prison officer concerned which was heard by Commissioner Mc Mahon of the South Australian Employment Tribunal. The Commissioner affirmed the decision of the internal investigation¹⁷.

4.9. I have considered these materials and Mr Henderson's submissions, but I find no reason to criticise the handling of this matter by DCS. Furthermore, given that the incident occurred on 10 June 2016; that Mr Babakhani had been on bail since 16 June 2016 and died on 5 September 2016, I am not persuaded there is a sufficient temporal nexus from which a finding might be made that those events contributed to his death.

4.10. Mr Babakhani had been released on home detention bail for 57 days prior to his death. There is no evidence to support a proposition Mr Babakhani committed suicide.

5. Circumstances on the day of Mr Babakhani's death

5.1. On 5 September 2016 Mr Babakhani was driven to the Amcal pharmacy for his methadone dose by his father who was at the time a taxi driver. His father brought him back home and left for work.

5.2. The DCS notes reveal on that day that Intensive Care Officers made covert observations of Mr Babakhani at the Amcal pharmacy. Their observations corroborate the father's account. He was seen to be complying with his pass.

5.3. Mr Babakhani senior returned home at around 7pm. He had dinner with his son before he left for work about half an hour later. Mr Babakhani senior states his son was in good spirits before he left the house.

5.4. Mr Babakhani senior returned home at around 11pm and found his son sitting upright on the floor next to his bed. Paramedics attended and declared life extinct at 11:05pm¹⁸.

6. Coronial investigation

6.1. South Australia Police were called to the scene and the statements of Constable Daniel Argent and Brevet Sergeant Steven White, crime scene examiner, set out their observations¹⁹. They found a metal spoon with what was believed to be drug residue, a

¹⁷ Reasons of SAET, Exhibit C15

¹⁸ Exhibit C1d page 5

¹⁹ Exhibit C9 and C10

piece of cotton filter, an empty syringe package and an alcohol cleansing swab in the bin in the kitchen.

- 6.2. A certificate of analysis by Forensic Science South Australia²⁰ confirmed heroin was detected on the cotton filter. Forensic analysis found Mr Babakhani's DNA on the spoon handle.²¹
- 6.3. Detective Brevet Sergeant Garry Johnson investigated the death and provided a report to the Court²². In his report he confirmed that police did not find a used syringe in the house, rubbish bins or the rear yard. A possible theory put forward by the investigating officer is that the syringe may have been discarded by the father prior to contacting the paramedics. Police also located a piece of alfoil that may have been used to mask Mr Babakhani's home detention bracelet.
- 6.4. Mr Babakhani's father denied he disposed of the syringe and stated the alfoil was used around the antenna to boost WiFi reception²³.
- 6.5. The investigation found no evidence to suggest someone visited the house to provide Mr Babakhani with heroin, but it is highly feasible. The source of the heroin could not be determined by police and analysis of Mr Babakhani's telephone records did not reveal anything of note.

7. Department for Correctional Services investigation

- 7.1. There was a corresponding DCS investigation conducted by Mr Terrence Nelson into the home detention ankle bracelet device²⁴. It was established that between 6:48pm and 10:50pm on the night of Mr Babakhani's death, both GSM²⁵ and GPS positions were not available, but the RF²⁶ signal was available. This indicates that the ankle bracelet was within the house and had not been removed.
- 7.2. The loss of GSM and GPS may have been attributed to either faults with the service provider Telstra, or the possible attempt to mask the device with alfoil.

²⁰ Exhibit C4a

²¹ Exhibit C5a

²² Exhibit C11a

²³ Exhibit C1d page 7 para 1

²⁴ Exhibit C11a Page 21

²⁵ Global System for Mobile communication

²⁶ Radio Frequency

8. Conclusions

- 8.1. I find that the detention of Mr Babakhani was lawful.
- 8.2. Mr Babakhani had continued to use heroin. It is clear he did so whilst on the methadone program and on home detention bail. It is possible that Mr Babakhani had heroin available to him at home at the time of his death.
- 8.3. Mr Babakhani was due to appear in the Central District Criminal Court on 6 September 2016, the day following his death. It is possible that he chose to self-administer heroin that night to alleviate any heightened anxiety associated with attending court.
- 8.4. I agree with the investigating officer that Mr Babakhani did not intentionally suicide. No suicide note or other indicators of suicide were found. Based on comments to his father, Mr Babakhani was developing a keen interest in health and exercise and had ordered protein and dietary supplement powders from the United States. His father states he was enthusiastic about the future, defending his charges in court and going on to get married, have children and qualify as a pilot or doctor²⁷.
- 8.5. I find that Mr Babakhani was receiving sufficient and appropriate medical and psychological treatment for his mental health issues from the staff at the Grand Health Medical Centre.

9. Recommendations

- 9.1. I have no recommendations to make pursuant to section 25(2) Coroners Act 2003.

Key Words: Death in Custody; Home Detention; Drug Overdose

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

Seal the 12th day of October, 2020.

Deputy State Coroner