Coroners Act, 1996
[Section 26(1)]

Western Australia

RECORD OF INVESTIGATION INTO DEATH

Ref No: 51/17

I, Evelyn Felicia Vicker, Deputy State Coroner, having investigated the death of ***Jackie-Lee Marama SMITH*** *with an Inquest held at Perth Coroners Court, Court 58, Central Law Courts, 501 Hay Street, Perth, on 14 December 2017 and 27 April 2018 find the identity of the deceased was* ***Jackie-Lee Marama SMITH*** *and that death occurred on 12 March 2015 at Unit 56/70 Goderich Street, East Perth, as a result of Acute Combined Drug Toxicity in the following circumstances:-*

Counsel Appearing:

Ms F Allen assisted the Deputy State Coroner

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INTRODUCTION

Late on the evening of 14 March 2015 police discovered the body of Jackie-Lee Marama SMITH (the deceased) in the bathroom of her unit in an advanced state of decomposition. The circumstances surrounding her death became the subject of much speculation in the block of flats in which she resided, not dispelled by the medical cause of death which was acknowledged to be hampered by the state of decomposition of the deceased when discovered.

The deceased was 56 years of age.

In view of the concerns raised by the family of the deceased it was considered desirable an inquest be held in an attempt to clarify the evidence available with respect to how the deceased's death occurred. (section 25(1) *Coroners Act 1996* (WA)). There was no dispute the death of the deceased was a reportable death, (section 3) in that it was unexpected and unexplained, without investigation.

The evidence considered during the course of the inquest was all the documentary evidence comprising Exhibit 1 as well as the oral testimony of a number of witnesses including the expert evidence of the forensic pathologist conducting the post mortem examination of the deceased and a consultant pharmacologist and toxicologist. The oral testimony of an additional witness was received on 27 April

2018, as the last person believed to have seen the deceased alive on the morning of 12 March 2015.

IDENTIFICATION

Unfortunately due to the state of decomposition of the deceased it was not possible for her to be visually identified by persons who knew her available at the time of discovery of the deceased.

The identity of the deceased was established by the use of finger print identification. The deceased's finger prints were taken at the QEII State Mortuary on 16 March 2015 and identified via comparison with existing finger print records the following day.[1]

The Deceased

The deceased was born on 22 October 1958 in New Zealand. She was one of a family of four children.

The deceased later moved to Australia and spent the next 35 years in Australia excluding two stays in New Zealand. She had a daughter and granddaughter, both of whom lived in Perth.

During the deceased's second stay in New Zealand she suffered a serious motor vehicle accident in 1989 when she

[1] Ex 1, tab 4

was 31 years of age. This caused her a lifelong disability with chronic pain. When in Perth she was under the care of a pain management specialist at Royal Perth Hospital (RPH).

The deceased was also exposed to domestic violence as a result of one of her long term relationships and received counselling from Community Mental Health Services (CMHS) and a refuge to help her deal with difficulties arising in her life.

The deceased had a long involvement with illicit drug use, including self-reported heroin abuse, and this probably contributed to her lengthy, but petty, criminal history in Western Australia (WA) spanning 1985 – 2012, including short periods of imprisonment related to driving without a motor vehicle drivers licence.

Aside from chronic pain the deceased also suffered anxiety and depression with panic attacks for which she was medicated through her GP and relevant CMHS.

The deceased moved into her address at Unit 56/70 Goderich Street, East Perth, in December 2014. She was assisted with the move by a friend, Michael Rogers. During the move another resident of the block of units, Tim Michaels, became aware of the fact the deceased was

moving into the block. Mr Michaels provided the deceased with a small fridge, an item she was without initially.[2]

Similarly, once the deceased had moved into the unit at Goderich Street she became known to other residents in the block of units, including Pamela and Leslie Lloyd,[3] Wally Anderson and Wayne Moss.

The deceased established friendships and associations of differing degrees with various residents. Mr Michaels and Mrs Lloyd described the deceased as a lovely person who appeared to adapt well to the units.

Mrs Lloyd indicated the units were not air-conditioned and frequently became extremely hot during warm weather. Mrs Lloyd considered the deceased's unit to be the hottest in the block of units due to its location. The deceased frequently left her front door open to allow air to circulate through the rooms in warmer weather.[4]

The gossip in the units appeared to speculate there was a relationship between the deceased and Mr Michaels, however, both the deceased[5] and Mr Michaels denied this was any more than friendship.[6] Mrs Lloyd agreed in evidence the deceased was friendly with Mr Michaels,[7]

[2] Ex 1, tab 10
[3] Ex 1, tab 11
[4] t 14.12.17, p57
[5] Ex 1, tab 11
[6] Ex 1, tab 10
[7] t 14.12.17, p56

however, Mrs Lloyd stated she expressed concern to the deceased regarding her apparent friendship with Mr Michaels.[8] Mr Michaels alleged this was due to bad feeling between him and the Lloyds' pre-existing the deceased's residence in the units,[9] although Mrs Lloyd denied knowing Mr Michaels prior to the deceased moving into the units,[10] despite the fact he had been a resident for many years.

Medication

The deceased was originally prescribed oxycodone for her chronic pain, along with oxazepam and amitriptyline for her anxiety and depression. The deceased had disclosed to her general practitioner (GP) a long past history of illicit drug use including heroin abuse. The deceased's GP of 15 years indicated the deceased was stable for many years with her medical regime, but noted a change in the deceased's behaviour from about April 2014. This change in the deceased's behaviour caused her GP considerable concern as to the deceased's exposure to unreliable influences and as a result the deceased, in consultation with her GP, changed her medical regime to include tramadol instead of the oxycodone (highly sought after opiate on the streets) with daily dispensing. [11]

[8] t 14.12.17, p52
[9] Ex 1, tab 10, t 21.04.18, p118
[10] t 14.12.17, p53
[11] Ex 1, tab 9

The deceased was last seen by her regular GP on 3 March 2015 when she advised her she was no longer taking oxycodone having successfully transitioned to tramadol. The deceased reported to her GP she did not like taking tramadol as it made her feel nauseous and sensitive, but she was willing to persevere with the tramadol in view of her GP's concerns with long term effects of oxycodone.

On 3 March 2015 the deceased's GP prescribed her three lots of 150mg tramadol tablets with 20 per box. There was no direction about daily dispensing on that prescription. The deceased attended the Hillarys Community Pharmacy on that date where she was dispensed with Murolex (oxazepam) (30mg x 25 tablets) and tramadol SR (150mg x 20 tablets x 60 tablets, 20 tablets per box.)[12]

On 6 March 2015 the deceased consulted with another GP at the Hillarys Medical Centre and stated her flat had been broken into and her oxazepam taken. She also complained of a sore coccyx after falling from a chair.[13] The deceased was prescribed another 25 tablets of 20mg oxazepam and the deceased attended the Rosen's Pharmacy and was dispensed with the 25 x 20mg oxazepam tablets.[14]

[12] Ex 1, tab 16
[13] Ex 1, tab 9
[14] Ex 1, tab 16

Mr Rosen advised police the deceased and Mr Michaels frequently attended at Rosen's Pharmacy together for the deceased's medication and appeared to be friendly.

There is no mention from the deceased's doctors or pharmacists about the deceased reporting an incident on 5 March 2015, only the fact the deceased had fallen from a chair and her coccyx was sore to a GP at her usual surgery on 6 March 2015 when she was prescribed the oxazepam.

MARCH 2015

A reliable assessment of the deceased's movements in March 2015 has been limited due to the amount of hearsay arising in the block of units following her death. The evidence has been seriously contaminated. As a consequence it has been necessary to rely as far as possible upon records created contemporaneously by the recording of events by independent people, such as the deceased's GP for her doctor's attendances at the beginning of March, and pharmacy records for her prescriptions on 3 & 6 March 2015.

The first event for which there is independent verification comes from interrogation of police records as to tasks completed by police. In her statement after the death of the deceased, Mrs Lloyd, a neighbour of the deceased, described an incident she believed occurred on 26 February 2015

which caused her to call police.[15] The police have no record of an incident on that date, but the circumstances Mrs Lloyd described appear to relate to an incident the police were called to on 5 March 2015.[16] Mrs Lloyd confirmed in evidence it was 5 March 2015.[17]

Mrs Lloyd stated the deceased had come to her and told her (a neighbour) had gone around to the deceased's place while she was asleep and taken her money and her purse. The police had attended and obtained the deceased's purse from (the neighbour) and returned them to the deceased.

The police incident report for that date records a telephone call at 8.10 am from Mrs Lloyd requesting they attend at the units because the deceased had gone to Mrs Lloyd "*very distressed and crying. States she is arguing with resident from another unit and they have taken her keys for her unit and have locked her out.*" Police attended the deceased's unit at 9.15 am and spoke directly to the deceased about the claim a neighbour "*took her keys away*". The police located the keys on the floor in her unit and recorded the deceased "*appeared to be under the influence of unknown substances, highly erratic*".

The deceased assured the attending police she did not have any thoughts of self-harm due to their concern as to her

[15] Ex 1, tab 11
[16] Incident Report 5 March 2015 – Ex 1, Tab 17
[17] t 14.12.17, p46

wellbeing and the attending police advised her that if she had concerns with any of her neighbours the appropriate point of call for non-criminal matters was Homeswest.

The attending police also spoke to Mr and Mrs Lloyd who confirmed the deceased had told them (someone) had stolen her keys, however, the police reassured the Lloyds the deceased now had her keys. There is no evidence in the attendance report the police had to obtain the deceased's keys or purse from another person, rather they were on the floor of her unit. The police recorded the deceased was on prescribed heavy medication and would attend RPH due to her elevated mood.

At 5.15 pm on 5 March 2015 police records lodged a call from Wayne Moss stating that the female about whom a call had been made that morning was still *"screaming and yelling and not responding when he knocks on the door"*. Mr Moss stated the police had attended earlier in the day for the same reason and the commotion was on going.[18]

The police responded to that call at 5.42 pm and knocked on the door of unit 56 several times without answer. There was no sound or sign of movement coming from inside the apartment on peering through the missing security peep hole. The police system had a record of the deceased's mobile phone number and used that to try and make

[18] Ex 1, tab 17

contact, however, there was no response and there was no ability to leave a message. The attending police could not hear the phone ringing within the apartment so assumed the deceased was not present.

They spoke to Mr Lloyd and he advised the police he was "*very familiar with Smith, had heard her shouting and banging all day*". Mr Lloyd did not know if the deceased was still inside the apartment or had left, so the police went and spoke with Mr Moss who confirmed the deceased had been acting erratically by "*screaming, shouting and banging things around her apartment*".

It was believed by other residents to whom police had spoken this was more than likely due to the deceased's mental health issues combined with drug use. This was consistent with the view of the police officers who had attended that morning and considered the deceased to be under the influence of substances. The police did not believe they would be justified in forcing entry to the apartment because the residents were not concerned about any threats of self-harm by the deceased.

The attending police provided a phone number to the residents and asked they call the police if the deceased returned. The attending police also spoke to the Mental Health Emergency Response line (MHERL) and were assured the deceased was known to them and they would provide a

support team to visit her in the morning. They stated they would appreciate a call from the police if they heard from the deceased and she was well prior to the following morning.[19]

The police call centre received a telephone call from residents in the units at 7.15 pm advising them there was a light on in unit 56 and the caller believed the deceased may now be home. Another vehicle was dispatched to the address, however, on knocking on the door there was no response and they could not hear anything inside, although it was clear there was a light on when looking through the peep hole. The police view through the missing peep hole indicated a messy environment, but not "*trashed*". There was nothing to suggest a welfare concern for the deceased. The person who had called the police was asked to advise the police if there was any more disturbances and police advised that caller Homeswest was to be contacted if there were concerns about the tenancy. This was at 9.40 pm on 5 March 2015.

The events of 5 March 2015 appear to correspond to Mrs Lloyd's recall of a day upon which the residents had been concerned about the disturbance at unit 56. The sequence of events and the concerns with unit 56 appear to have developed a different character from that recorded by

[19] Ex 1, tab 17

police on 5 March 2015, following the deceased's death on 12 March 2015.

Interrogation of the police system does not disclose any other queries related to 70 Goderich Street and Unit 56 prior to discovery of the deceased's body.

Other than Mrs Lloyd's assertion the deceased had initially been wary of Mr Michaels it would seem that by February 2015 there was certainly a friendship between the deceased and Mr Michaels, although Mrs Lloyd stated she was concerned on behalf of the deceased.[20]

Mr Rosen, the pharmacist, was accustomed to seeing the deceased and Mr Michaels together without incident and the deceased did not allege any difficulty with Mr Michaels on her visit to the doctor on 6 March 2015 after falling from a chair and hurting her coccyx.[21]

11 March 2015

The deceased's daughter, Barbie Rose, was reluctant to provide a statement to police following her mother's death, however, did talk to police officers from the Office of the State Coroner (OSC) in July 2016. In that conversation Ms Rose stated she had seen her mother for lunch on 11 March 2015. In evidence she indicated her mother had

[20] t 14.12.17, p50
[21] Ex 1, tab 9

arrived in the afternoon, probably after lunch.[22] Ms Rose said her daughter was present at the time, the deceased's granddaughter, and that they had a very happy time with Ms Rose's partner and daughter.

The deceased appeared well and Ms Rose said they engaged very well, which could be unusual. She thought her mother seemed happy, though perhaps preoccupied, and advised the inquest it would be unlikely her mother would tell her if there was something bothering her. She advised that her mother rarely mentioned Mr Michaels and she was not aware of any concerns with Mr Michaels. She believed from things she saw and heard after her mother's death there may have been a problem with someone, but her mother would not wish to concern her.[23]

There was nothing in Ms Rose's evidence to indicate any concern with her mother's welfare with respect to Mr Michaels prior to her mother's death. It was clear that by the time Ms Rose gave evidence her independent recall had been very much corroded, possibly by the stories circulating the units following her mother's discovery.

Ms Rose described her mother as wearing a white top with black markings, white jeans and flat "s*neaker*" type shoes. [24] Ms Rose confirmed this in evidence, although Ms Rose's

[22] t 14.12.17, p60
[23] t 14.12.17, p62
[24] t 14.12.17, p50

grandmother was sceptical of that comment.[25] Ms Rose also described the jewellery her mother was wearing and I have viewed the mortuary admission video of the deceased and confirm she was wearing all the jewellery mentioned by Ms Rose, barring a necklace. Ms Rose's evidence constantly referred to "*she would have*" or "*she always*". It was difficult to ascertain whether she was referring to an actual memory of 11 March 2015, or rather a general recall of a number of interactions.[26]

Ms Rose advised she walked her mother to the bus stop later in the afternoon and saw her on to the bus sometime between 4.00-5.00 pm that evening. She believed her mother would have been home within the hour.[27] Ms Rose was grateful this contact with her mother had gone so well. To her it signified a new start for her relationship with her mother.

The only evidence we have of the deceased's movements once she arrived back at Goderich Street come from Mr Michaels. It is the only record of the deceased's movements following her return from her visit with her daughter anyone was prepared to provide to the police at the time of the deceased's death. Certainly there are no recorded disturbances for unit 56 reported to the police, or Homeswest, for the evening of 11 March 2015.

[25] t 14.12.17, p92
[26] t 14.12.17, p68
[27] t 14.12.17, p69

Mr Michaels spent the morning shopping with the deceased. Later that day he joined her in her unit where she cooked them both toasties.[28] In his statement to police Mr Michaels stated he had become friendly with the deceased following her move to the flats, although he was concerned about her use of prescription medication. He believed this sometimes affected her cognitive state and to some extent this was confirmed by Ms Rose in her evidence when she said her mother appeared well and not intoxicated in anyway on 11 March 2015.[29]

Mr Michaels advised that in the days preceding 11 March 2015 the deceased claimed she had a headache and was asking for Nurofen Plus, but would not accept his offer of Panadol. This would seem to follow her visit to the doctor on 6 March 2015 complaining of pain in her coccyx following a fall from a chair. There is no mention in the doctor's notes of an injury or complaint about her head.

12 March 2015

Mr Michaels remained in unit 56 with the deceased overnight and recounted that when she woke in the morning she was in a good mood. Mr Michaels left at about 7.25 am and described the deceased as being in shorts and a pink top, presumably clothes in which she had slept as he

[28] Ex 1, tab 10
[29] t 14.12.17, p60

referred to them as 'pyjamas'.[30] He believed she was going out that day but was not clear about the details.[31] Ms Rose indicated the deceased was again intending to spend time with her.[32]

Mr Michaels advised he did not sleep well generally and so he went to his unit for a sleep and did not hear from the deceased for the rest of that day although she had said "*see you later*".[33]

The Lloyds' were away from the units from approximately 7-12 March 2015 and had no direct evidence to report, although there was some hearsay Mr Michaels had told other residents the deceased was going away for a few days. This was not confirmed by any other residents when spoken to by OSC police.

Mr Michaels did not hear from the deceased again. The Lloyds' returned from their trip on 12 March 2015 and did not see the deceased.[34]

An assertion the police had 'taken' the deceased's peep hole on 5 March 2015 is clearly erroneous. Also the dates quoted in both Mr Michaels' and Mrs Lloyd's statements are not consistent with contemporaneous notes by other

[30] Ex 1, tab 10
[31] t 27.04.18, p117
[32] t 14.12.17, p59
[33] Ex 1, tab 10 – t 27.04.18, p119
[34] t 14.12.17, p49

organisations, although the factual parts do correspond to the narrative. It would suggest the residents as a whole had some difficulty with date precision.

14 MARCH 2015

Following their return to the units on 12 March 2015 Mrs Lloyd and her husband did not see the deceased. Mrs Lloyd commented the deceased's door was closed which she thought was odd because the unit door was usually open, especially when the weather was warm which Mrs Lloyd described as being the case at that time.

A check with the Bureau of Meteorology (BOM) recorded the temperatures in Perth from 11-14 March 2015 as follows; 34°, 38°, 36° and 26°. Mrs Lloyd believed the temperature had been much hotter than that but agreed that was probably the case within the units due to the lack of air circulation. Mrs Lloyd was adamant the deceased's unit was particularly hot which is why she usually kept the door of her unit open if she was home.[35]

Mr Lloyd went to the football on Saturday 14 March 2015 and on his return he advised Mrs Lloyd there was a bad smell outside their unit. Mrs Lloyd had not been aware of the smell until that point in time, however, on leaving her unit she agreed there was a bad smell and recognised it as being that of a dead body. Mrs Lloyd then rang the police.

[35] t 14.12.17, p41

The police incident report for that telephone call indicates that at 9.04 pm on 14 March 2015 Mrs Lloyd telephoned the Police Assistance Centre (PAC) and stated that the resident of unit 56 had not been seen by other residents for a few days and there was a "*horrible smell*" coming from the unit.

Within a minute of that call a task was posted on the police system asking a vehicle to attend when available and PAC called Mrs Lloyd to advise her police would be attending. Mrs Lloyd is reported to have said that she believed the deceased "*to be a drug addict*" and was concerned something had happened to her.[36] However, in evidence Mrs Lloyd was adamant she had not called the deceased a drug addict, but had stated she was concerned about her.[37]

Mrs Lloyd did not say she was concerned about Mr Michaels, nor is there any comment to PAC nor is there any indication in the incident report there was a concern with another person being involved with the disappearance of the deceased. The computer system then went on to populate the task with other information available to the system with respect to the deceased, and provided that on the computer for the information of police attending the scene. There was information about the previous attendance on 5 March for a disturbance at that address.

[36] Ex 1, tab 17
[37] t 14.12.17, p42

Sergeant Todd (Todd) and First Class Constable Ridge (Ridge) attended at Unit 56 at 9.38 pm in response to Mrs Lloyd's query. In evidence Sergeant Todd explained that population of the incident report from the police system was to provide attending police with as much information as possible with respect to the situation they may be confronting.[38] He advised that on reaching unit 56 the two police officers were unable to gain entry and on discussions with neighbours were concerned they may be attending a suicide. No concerns were raised with the attending police about Mr Michaels.[39]

One of the residents present advised the police officers they believed Mr Michaels may have a key, however, he could not be located. The police officers left to obtain a door opening apparatus (ram). While the two police officers were on the way to collect the ram PAC received a call from Mr Michaels saying he had been advised by residents the police were seeking entry to unit 56 out of concern for the deceased. He told the PAC he had a key if the police wished to return. Mr Michaels had not been into the unit recently and in view of the concerns raised by the residents about the deceased he was not prepared to go into the unit without the police.[40]

[38] t 14.12.17, p11
[39] t 14.12.17, p23
[40] t 14.12.17, p18

That was communicated to the two police officers and they returned to 70 Goderich Street to obtain the key from Mr Michaels to enable them to enter the unit.

Mr Michaels was with Trish and Wayne Moss and provided the police with the key for unit 56 before he went down to the car park.[41] The two police officers advised the court that on their return to unit 56 they used the key provided by Mr Michaels to enter the unit. Ridge could see the living area to the left where the television was on, but the light was off, and a bedroom directly in front of him in darkness with a bathroom to the right with a light on.[42]

On entering the unit Ridge could see into the bathroom and observed "*a female person who appeared to have fallen backwards and wedged her right arm, right shoulder and head between the wall and the toilet, possibly hitting her head on the toilet bowl in the process*".[43] The description given by Ridge of the position of the deceased and what she was wearing is consistent with the photographs he took at the time with the exception of the deceased's shoe colour. In evidence Ridge stated he had not checked with the photographs at the time of writing his attendance report because they had been forwarded to Coronial Investigation Unit (CIU)[44] separately. With the exception of the deceased's shoes, the description of what the deceased was

[41] t 14.12.17, p29
[42] t 14.12.17, p27
[43] Ex 1, tab 2
[44] t 14.12.17, p31

wearing is consistent with the clothing described by Ms Rose for 11 March 2015. In the photographs taken by Ridge on 14 March 2015 the deceased is clearly wearing high heeled platform shoes which are black.[45]

Both Todd and Ridge have several years experience between them, in different jurisdictions, and Todd explained he was familiar with the appearance of a decomposing body. The fluid evident in large quantities across the floor of the bathroom was fluid as the result of decomposition. It was not blood, but fluids released from the body as decomposition starts.[46] Both police officers confirmed there was no doubt the deceased was decomposed and that is evidenced by the scene photographs.

Both police officers stated that in their view there was nothing about the scene which made them believe another person had been involved in the death of the deceased. Although initially confronting, the scene gave all the appearances of the deceased's collapse backwards, with her head and chest becoming wedged against the wall of the corner alongside the toilet bowl. Due to the fact there was, in their experience, nothing obviously questionable about the scene of the sudden death, the two police officers notified Police Operations Centre (POC) of their findings which were forwarded for the information of the Coronial Investigation Squad (CIS).

[45] t 14.12.17, p30
[46] t 14.12.17, p23

Ridge advised the court that had he had any suspicions at all about the deceased, and certainly nothing had been expressed by the residents with whom they had spoken, he would have notified POC and requested the attendance of detectives and possibly the forensic team (SOCO).[47] Neither police officer could see any reason for restricting access to the area by way of a forensic protected area (FPA).

The two police officers were mindful of the state of the deceased and did not think it desirable to ask any of the residents who knew her to identify her, so arrangements were made for that to be done at the State Mortuary after the contractors had removed the body.[48]

There were no illicit drugs located at the scene, but there were three boxes of tramadol, as per the prescription of 3 March 2015, of which 36 tablets out of 60 remained. Approximately 24 tablets were missing which was consistent with the prescribed rate on the assumption the deceased had used all her previous tramadol, and commenced her dosage on the day of dispensation. The other prescribed medications were also consistent with her therapeutic doses.[49] There was no evidence of an intentional overdose and the scene was consistent with an accident.[50]

[47] t 14.12.17, p27-28
[48] t 14.12.17, p37
[49] t 14.12.17, p8-9
[50] t 14.12.17, p5

Following discovery of the deceased there were conflicting reports to the police of visitors to the deceased's unit by various people. It is clear the deceased's daughter[51] and mother accessed the unit, and Mr Rogers.[52] Initially Mr Michaels assisted the family but that changed with time.[53]

Mr Michaels was adamant in evidence, and to police at the time, he had no key to the deceased's unit since providing one to the police on 14 March 2015.[54] The attending police confirmed they had secured the unit on 14 March 2015 and retained the key.[55]

There were allegations and cross allegations but none which changed the circumstances in which the deceased was located by police on the evening of 14 March 2015.[56] The removal of the deceased from the unit by contractors would have disturbed the scene, as would attendance by other people with access after the contractors had left.

POST MORTEM EXAMINATION

The post mortem examination of the deceased was conducted on 17 March 2015 by Dr Gerard Cadden, Forensic Pathologist. Dr Cadden was not advised of any concerns with the scene of death and not provided with any

[51] t 14.12.17, p66
[52] Ex 1, tab 10
[53] Ex 1, tab 10
[54] t 27.04.17, p130
[55] t 14.12.17, p6
[56] t 14.12.17, p4-6, p27-28

photographs of the deceased in situ. This ensured an independent overview of the body without any preconceived idea of the circumstances of death.

In the event there is suspicion as to the circumstances of a death then police generally attend the post mortem examination and advise the pathologist of their concerns to ensure those are specifically addressed. There was no obvious reason for concern with the death of the deceased and the post mortem examination was to try and establish the cause of death consistent with the state of the body.

Dr Cadden advised the court the deceased was severely decomposed and there was evidence of putrefaction with extensive tissue autolysis including total liquefaction of the brain.[57] Dr Cadden observed no gross primary pathology which would explain the death with the proviso relating to the state of decomposition of the body. He could see no evidence of external injuries and the lividity on the body matched the information he had been provided with in the form accompanying the body to the mortuary outlining the basic scene.[58]

Dr Cadden was unable to obtain blood or urine, however, did take samples of other tissues approved by chemists and toxicologists as suitable for an assessment of toxins, drugs and biochemistry at the time of death. Dr Cadden also

[57] Ex 1, tab 6A
[58] Ex 1, tab 13

sought any medical history with respect to the deceased which could be relevant to her death. Dr Cadden decided he was unable to immediately determine a cause of death for the deceased and would wait until he could review the background medical reports and the chemistry centre analysis from the samples he was able to obtain.

On 28 July 2015 Dr Cadden wrote a letter to the OSC outlining the situation he had found at first instance with the deceased and a summary of the additional investigations which had been undertaken.

Dr Cadden had the results of toxicology, however, histology added nothing due to the state of decomposition. He had received a medical history from the deceased's GP outlining her history which may be relevant to her death in March 2015. Dr Cadden emphasised the decomposition was severe and to a large extent hindered fine detail with respect to the deceased. Dr Cadden indicated he believed the deceased's death to be consistent with acute combined drug toxicity due to the levels quantified of tramadol in the liver and other prescription drugs. Dr Cadden was not prepared, due to the state of decomposition, to put anything other than "*consistent with acute combined drug toxicity*".[59]

Toxicology

OSC decided it would be appropriate to obtain a specialist report from Professor David Joyce with respect to the

[59] t 14.12.17, p78

deceased's toxicology. The deceased's mother had raised concerns about the involvement of a third party in the death of her daughter and it was considered necessary to obtain an expert opinion in an attempt to clarify the toxicology.

Professor Joyce is an internationally recognised physician in clinical pharmacology and toxicology. He has both academic and clinical expertise and was asked to examine the relationship between the chemistry centre results for the deceased at post mortem and a cause of death. He was specifically asked whether reliance could be placed on the liver toxicology in the setting of well-established decomposition.[60]

Professor Joyce reviewed the available evidence with respect to the deceased, however, was not in possession of the photographs obtained by Ridge. Professor Joyce was advised the original number of tramadol pills outlined as available to the deceased at the scene was misleading. Professor Joyce stated that did not change his opinion as to the quantified analysis report with respect to the levels quantified within the deceased's body, taking into the account the effects of decomposition.[61] Professor Joyce noted the state of putrefaction may have compromised detection of some drugs and have led to an incomplete list of the drugs actually present in the deceased's body, however, there was enough quantified from the deceased's liver for

[60] Ex 1, tab 8A
[61] Ex 1, tab 8B & t 14.12.17, p88

him to express an informed opinion. While he acknowledged that decomposition may have affected the levels of some of the drugs in the deceased's system, that would have been by way of disappearing from the liver between the time of death and the time of sample collection, and as such the levels in life would have been higher, rather than lower. The issue of post mortem redistribution was not of great concern with the particular drugs in question.[62]

> *"So it is safe to say that liver drug concentrations in life were at least as high as those measured in the post mortem specimens"*[63]

Despite the fact the deceased had been prescribed oxazepam as needed on 6 March 2015 none was found in her liver, nor were any empty packages of oxazepam located at the scene. There may be many reasons for this, the deceased may have swapped her oxazepam for other medication or she may have not have used any around the time of her death. Professor Joyce indicated the fact there was none quantified in the body did not mean it was not there, but rather it had not made an important contribution to the cause of death.[64]

With respect to the amitriptyline/nortriptyline, the concentrations were towards the upper range which may be

[62] t 14.12.17, p83
[63] Ex 1, tab 8B
[64] t 14.12.17, p83

found during conventional therapy for depression. The ratio of amitriptyline to nortriptyline was such that it would mean the drug had been taken some time before death and that was consistent with her prescription. He did not believe those quantities would have posed any risk to the deceased in life.[65]

Professor Joyce commented the tramadol concentration in the deceased's liver was very high and was within the range that has been associated with death from tramadol intoxication. He stated the liver concentration is clearly very much higher than would be expected in relation to a person who is taking a prescribed 150mg twice daily. The quantifiable amount in this case was much higher. As such Professor Joyce was of the view *"the toxicological data therefore strongly supports the diagnosis of recent overdose with tramadol. It is not possible to say this was a single large overdose or a series of small ingestions"*.[66]

Professor Joyce had no doubt the amount located would have caused tramadol toxicity which can manifest as confusion, agitation, epileptiform seizures and elevated body temperature. He noted the pharmacology of tramadol allows serotoninergic syndrome to emerge with overdose and that the risk seems to be enhanced with tricyclic drugs such as amitriptyline and nortriptyline which were present in the screen. Serotoninergic syndrome carries with it an

[65] t 14.12.17, p85
[66] Ex 1, tab 8B

appreciable mortality, even with optimal medical treatment. He noted the other important pathway to death in tramadol toxicity was through its opioid effects, in suppressing breathing and circulation, although tramadol is a lot safer than other opioids in this regard. It would have been for this reason Dr Annan, the deceased's GP, switched the deceased from oxycodone to tramadol.[67]

Professor Joyce outlined tramadol may impair a person's basic protective reflexes. He believed the deceased would have been unsteady on her feet as a result of the tramadol toxicity, without her footwear, and so would have been at risk of falling. Having fallen, the sedating, confusing and weakening effects of the intoxication may well have prevented her from rising and prevented her from appreciating the effects of the fallen posture on breathing advocacy.[68] He believed the issue of the contribution of positional asphyxia to the death was one for the forensic pathologist.[69]

Professor Joyce indicated the levels of alcohol in the deceased had not been taken into consideration due to the fact it probably related to the state of putrefaction.

In the conclusion Professor Joyce stated;

[67] Ex 1, tab 8B & t 14.12.17, p86
[68] Ex 1, tab 8B
[69] t 14.12.17, p89

"Ms Smith has taken excessive doses of tramadol. The concentration in liver implies that she was intoxicated with the drug. It is consistent with severe and life-threatening toxicity. The circumstances of her death are consistent with tramadol toxicity precipitating her fall and preventing her from appreciating and resolving her situation. Contributions from other drugs cannot be measured quantitatively, but the presence of appreciable amounts of the tricycle drugs amitriptyline and nortriptyline is consistent with them interacting with tramadol to increase its toxic potential. The diagnosis of acute combined drug toxicity, as the cause of death, is therefore well supported by the toxicological analyses."[70]

In evidence Professor Joyce indicated the fact the deceased's prescription and dispensing data would appear to be consistent with the tramadol located at the scene did not alter his view the evidence of the analysis indicated the deceased had overdosed on tramadol and was suffering tramadol toxicity regardless of the apparent availability of tramadol medication. His analysis was based on the toxicology, not the scene.[71]

In court Dr Cadden and Professor Joyce were provided with a copy of a photograph of the deceased in situ in response to my query as to whether positional asphyxia may also

[70] Ex 1, tab 8B
[71] t 14.12.17, p88

have affected the outcome for the deceased. Dr Cadden advised that at post mortem examination the state of decomposition was too great for the indicia of asphyxia to be relevant, however, the photographs certainly disclosed a potential for that to have contributed to the death.[72]

Professor Joyce indicated the level of tramadol quantified in the deceased's system would certainly have *"brought a person to the ground at some point".*[73] The position in which a person fell or collapsed was a matter of chance.

Aside from the deceased's quantifiable level of tramadol intoxication Professor Joyce was also of the opinion the deceased's foot wear as described in an environment such as a bathroom may contribute to instability. He noted the body was in a state of decomposition and post mortem examination had not revealed an identifiable cause of death and that no tablet or capsule material was visible in the stomach contents.

Following the inquest I provided all the photographs available of the deceased in situ to Dr Cadden for his views and he confirmed;

> "*the close up views further support the proposition of positional asphyxia. Basically, one has a drug intoxicated person, wearing high heeled footwear in a*

[72] t 14.12.17, p74, 76
[73] t 14.12.17, p89

tiled and floor matted potentially slippery area who has head (face down) and upper torso located in a very confined space. The possibility she may have knocked herself out in the course of arriving in that position cannot be excluded."[74]

MANNER AND CAUSE OF DEATH

While the levels of tramadol quantified from the post mortem liver for the deceased clearly reflect tramadol toxicity of a level which could account for her death alone, I am satisfied, from the physical position of the deceased when located, that her death would also have been contributed to by the position in which she fell.

I note the deceased had relatively recently withdrawn herself from oxycodone in an attempt to control her need for pain relief in view of her long standing chronic back pain. The evidence as a whole also indicated the deceased had a fairly traumatic life including being a victim of domestic violence and I am satisfied she had need of medication to assist her in attempting to live her life as gently as possible.

The deceased had successfully commenced using tramadol, at the instigation of her doctor, but I note she was having difficulty with tramadol. It made her feel dizzy and nauseous, but she wished to persevere. I can only surmise

[74] Personal communication Dr Cadden to the Deputy State Coroner 19.12.2017, Ex 2, t 27.04.18, p102

it was effective in providing her with pain relief, but the side effects were something she and her doctor hoped would pass. As far as I can assess this was only the deceased's second prescription for tramadol and it is not clear how much of her previous prescription she had remaining, when she obtained her new script on 3 March 2015. It may be she was taking larger than the prescribed amount over that time in an effort to control her pain. She was certainly prescribed oxazepam to take as she needed, although that was not located at the scene.

There is no evidence Mr Michaels was a user of any of the drugs which were prescribed to the deceased.

I am also satisfied the reported temperatures in the units between 12-14 March 2015 were such they would have hastened decomposition in a person wedged head down in the manner indicated in the photographs. As the body decomposed so the purging of fluids and collapse would have increased.

It is clear the quantity of tramadol present in the deceased's toxicological screen would affect her level of intoxication, presumably exacerbated by her side effects of nausea and dizziness.

The evidence supports that while preparing to go out following getting up on the morning of 12 March 2015 the

deceased slipped and fell in her bathroom while sedated with a combination of her prescription drugs. The fall itself and the position into which she fell hastened her death.

There is no evidence whatsoever of the involvement of a third person in the death of the deceased, nor any indication the deceased intended to die.

All the evidence indicated the deceased was in a good frame of mind, she had made a tentative peace with her daughter, was apparently successful in controlling her drug seeking behaviours, and was well accepted by residents in her relatively new accommodation.

Life should have been improving for this well-meaning, friendly, "*gentle soul*" to quote her brother.

Unfortunately that was not to be. The combined effects of her relatively new medication with her long acting antidepressants caused her side effects including nausea. On the morning of 12 March 2015 she slipped and fell in her bathroom as she prepared to leave her unit to visit her daughter. She was not seen alive again, but death would have been rapid in the position in which she found herself. There is no evidence anybody had interfered with the deceased prior to her location by the police.

I am satisfied the level of tramadol intoxication caused the deceased's death, contributed to by the position in which she fell.

I find death occurred by way of Accident.

CONCLUSION

I understand the family of the deceased are concerned a third person was somehow involved in the death of their well-loved daughter, sister, mother. While there are anomalies following the death, the salient points around the death as I have outlined, all tend to be supported by external independent evidence.

Understandably the shock of her death, when life appeared to be improving is very difficult for the deceased's loved ones to accept. It was a tragic and soul destroying outcome for a life that had been challenged by many difficulties. It is clear the deceased was well loved and is fondly remember both by her neighbours and friends, as well as her family.

E F Vicker
Deputy State Coroner
3 August 2018