STATE CORONER'S COURT
OF NEW SOUTH WALES

Inquest:	Inquest into the death of Francis Sawle
Hearing dates:	12 February 2020
Date of findings:	12 February 2020
Place of findings:	NSW State Coroner's Court, Lidcombe
Findings of:	Magistrate Harriet Grahame, Deputy State Coroner
Catchwords:	CORONIAL LAW – Death in custody, natural causes
File numbers:	2019/49616
Representation:	Ms A Chytra (Sergeant) coronial advocate assisting Ms K McKinlay, solicitor, Department of Communities and Justice(DCJ) Legal, for the Commissioner of Corrective Services NSW (CSNSW) Mr H Norris, solicitor for the Justice Health &Forensic Mental Health Network

Findings	**Identity** The person who died was Francis Sawle. **Date of death** He died on 13 February 2019. **Place of death** He died at Prince of Wales Hospital, Randwick NSW. **Cause of death** He died of an acute myocardial infarction caused by ischaemic heart disease. **Manner of death** He died in hospital of natural causes.

Non-Publication orders

I make the following non-publication orders

1. That the following information contained in the brief of evidence tendered in the proceedings not be published under section 74(1)(b) of the *Coroners Act 2009* (NSW):

   a. The names, contact numbers and addresses of any member of Francis Sawle's family and visitors other than legal or professional visitors;

   b. The names, personal information and Master Index Numbers (MIN) of any persons in the custody of Corrective Services NSW (CSNSW) other than Francis Sawle;

   c. The direct contact details of CSNSW staff and staff from external service providers not otherwise publicly available;

   d. All references to the nature of Francis Sawle's offences;

   e. Portions of the Inmate Accommodation Journal which details security checks conducted by CSNSW staff (Pages 33 – 39); and

f. Closed Circuit Television (CCTV) of Francis Sawle's Cell at the Prince of Wales Hospital.

2. Pursuant to section 65(4) of the *Coroners Act 2009* (NSW), a notation be placed on the Court file that if an application is made under section 65(2) of that Act for access to Corrective Services NSW documents on the Court file, that material shall not be provided until Corrective Services NSW has had an opportunity to make submissions in respect of that application.

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Introduction

1. Mr Sawle was 82 years of age at the time of his death on 13 February 2019. He was serving a custodial sentence and had been transferred from Long Bay Prison Hospital to the Prince of Wales Hospital, Randwick NSW.

2. A post mortem examination was conducted on 18 February 2019. The forensic pathologist conducting the examination recorded the cause of death as “acute myocardial infarction”, with an underlying cause of ischaemic heart disease. She noted that Mr Sawle also suffered interstitial lung disease with pneumonia. His death followed a period of worsening renal function and chest pain.[1]

The role of the coroner

3. The role of the coroner is to make findings as to the identity of the nominated person, and in relation to the date and place of death. The coroner is also to address issues concerning the manner and cause of the person’s death.[2] In addition, the coroner may make recommendations in relation to matters that may have the capacity to improve public health and safety in the future.[3]

4. In this case there is no dispute in relation to the identity of Mr Sawle, or to the date, place or medical cause of his death.

5. Nevertheless, where a person dies in custody, it is mandatory that an inquest is held. The inquest must be conducted by a senior coroner[4]. When a person is detained in custody the state is responsible for his or her safety and medical treatment. It is important to review all inmate deaths, including those which appear to be have been naturally caused so that we have confidence that each prisoner has received adequate and appropriate medical care.

6. Section 81 (1) of the *Coroners Act* 2009 NSW requires that when an inquest is held, the coroner must record in writing his or her findings in relation to the various aspects of the death. These are my findings in relation to the death of Mr Sawle

Scope of the inquest

7. The inquest took place on 12 February 2020. A two volume brief was tendered including police statements, photographs, prison and medical records. The officer in charge of the investigation, Senior Constable Victoria Stein was called to give brief oral evidence.

Background

8. Mr Sawle was born on 30 April 1936. On 2 March 1957 he married and the couple had six children together. For reasons I do not intend to outline, Mr Sawle was later estranged from

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[1]

[2] Section 81 *Coroners Act* 2009 (NSW)

[3] Section 82 *Coroners Act* 2009 (NSW)

[4] See sections 23 and 27 Coroner’s Act 2009 (NSW)

his family. Prior to his arrest, Mr Sawle was socially isolated and reportedly living in his car or in temporary accommodation.

9. Mr Sawle had a long history of heavy smoking and alcohol use.

Mr Sawle's medical history

10. Prior to entering custody, Mr Sawle did not visit a doctor regularly. It appears that he had not sought any medical advice for several years. Medical records indicate that in the 1980s, he underwent a coronary artery bypass grafting at St Vincent's Hospital. During his Reception Screening Assessment with Justice Health Mr Sawle reported a history of having been treated for skin cancers but was unable to remember the dates. It was known that Mr Sawle was allergic to penicillin.

11. Prior to his sentencing in the District Court a medical report was provided that detailed various clinical notes and documents within Mr Sawle's electronic health records and file. This report indicated that Mr Sawle suffered from; ischemic heart disease, had a history of smoking and bypass grafts, chronic renal impairment, renal mass, ECHO – mild aortic and mitral regurgitation, aorteosclerosis, cognitive impairment, generalised cerebral atrophy and moderate hippocampal atrophy, mild glaucoma, weight loss with constipation, prostatism, urinary incontinence, guard affect and general anxiety.

12. He later exhibited ongoing declining cognitive function.

Mr Sawle's criminal history

13. On 22 September 2015 Mr Sawle was arrested and charged with six serious offences pursuant to the *Crimes Act* 1900. Mr Sawle was bail refused on these charges and remained bail refused until he was sentenced to full time custody.

14. On November 22, 2018 at the Downing Centre District Court, Mr Sawle was convicted of all six sequences after pleading guilty on the day that his trial was scheduled to start. He was sentenced by Acting Judge C O'Connor to an aggregate period of imprisonment of ten years, commencing on September 22, 2015 and expiring on September 21, 2025. A non-parole period of five years was set, which was due to expire on September 21, 2020.

Medical treatment in custody

15. On 22 September 2015 Mr Sawle was transferred to Grafton Correction Centre. A mental health assessment was completed that showed that Mr Sawle was not at risk to himself or others but had delusional thoughts of being able to control natural disasters. He was placed in shared accommodation due to his age and frail capacity.

16. In November 2015, Mr Sawle was reviewed by a general practitioner (GP) in custody and was referred for a CT scan of the brain and to a geriatrician due to his cognitive deterioration. On 2 January 2016, Mr Sawle was transferred to the Long Bay Correctional Centre (LBCC) to attend a CT of his brain. That CT showed generalised mild cerebral atrophy.

17. On 6 January 2016 Mr Sawle was transferred to the Kevin Waller Unit (KWU) at the LBCC which is more suitable for elderly patients. While housed at the KWU, Mr Sawle was seen regularly by the Primary Care Nurse (PCN) for physical observations, which included blood pressure, pulse, temperature and weight recordings. Mr Sawle had several recurring issues during his time in custody including skin tears which were often dressed and monitored, substantial weight loss, lack of appetite and constipation.

18. On 4 February 2016 Mr Sawle was reviewed by a GP for high blood pressure and commenced on Perindopril to manage hypertension. He was also commenced on Risperidone to manage delusions.

19. On 22 March 2016 Mr Sawle was reviewed by an ophthalmologist and diagnosed with early glaucoma. He had follow-up appointments and a plan for cataract surgery was discussed.

20. Mr Sawle was diagnosed with chronic renal impairment and attended consultations at Prince of Wales Hospital. An ultrasound on 26 September 2018 showed a vascular mass at the base of the left kidney and this was to be further investigated at the renal clinic at Prince of Wales Hospital.

21. On 12 September 2017 an endocardiograph was conducted at POWH which identified mild aortic and mitral regurgitation and aortosclerosis.

22. On 30 January 2019 Mr Sawle was transferred to Prince of Wales Hospital for a planned CT of his upper abdomen and pelvis with contrast. This CT was completed on 31 January and showed a large left renal heterogeneous lobulated mass which is was most consistent with a renal cell carcinoma and atrophic right kidney. During his hospital stay, Mr Sawle experienced a cardiac event and was transferred to the Coronary Care Unit for cardiac monitoring. On 1 February 2019 Mr Sawle underwent an angiogram which showed that he had severe triple vessel disease. It was determined that Mr Sawle did not appear to be a candidate for surgical intervention given the triple vessel cardiac disease and likely interstitial lung disease (ILD). The diagnosis of Alzheimer's disease was also confirmed.

23. An Advanced Care Directive, in the form of a non-resuscitation plan, was prepared and signed by Dr Peiynan Li on 6 February 2019. Mr Sawle was not for CPR or referral to the ICU. The resuscitation plan indicated that Mr Sawle was "terminally ill suffering from a variety of medical ailments; heart and lung disease, chronic kidney disease; renal cell carcinoma and dementia."[5]

24. On 8 February 2019 Mr Sawle was discharged from Prince of Wales Hospital and returned to the Kevin Waller Unit.

25. About 5am on 9 February 2019 Mr Sawle had a sudden onset of severe respiratory distress and chest congestion. An ambulance was called to take Mr Sawle from Long Bay Hospital to Prince of Wales Hospital. He was escorted by Correctional Officers. Mr Sawle was admitted as a patient at Prince of Wales Hospital.

26. The palliative care team were consulted and care was provided for palliative care symptoms under the cardiology team. Comfort measures included medication, mouth care and positioning.

[5] Serious Incident Report, Exhibit 1, Tab 9, page 3

Events leading up to the death of Mr Sawle on 13 February 2019

27. About 7am on 13 February 2019 NSW Health Nurse Cabatingan attended to Mr Sawle and observed Cheyne-Stokes breathing. Cheyne-Stokes breathing is an abnormal pattern of breathing that is sometimes associated with imminent death. About 8am Nurse Cabatingan continued palliative treatment, including medication.

28. On 13 February 2019 Senior Correctional Officer (SCO) Chris Daniels was working with Correctional Officer (CO) Amit Khanna at Secure Unit Cell 1 at Prince of Wales Hospital. About 8.45am the Correctional Officers were approached by NSW Health Nurse Cabatingan seeking entry to Mr Sawle's cell to observe and reassess his current condition. Upon entry Nurse Cabatingan examined Mr Sawle who was then unresponsive and appeared deceased. As there was an advanced care directive in place and Mr Sawle was not for CPR, no CPR was performed. Correctives Officer Khanna commenced a time log and secured the cell.

29. At 9.55am, Dr Andrew Dind pronounced life extinct and completed the Form A (Report of Death of a Patient to the Coroner). [6]

30. I have had the opportunity to review medical records[7] and am satisfied the medical care and treatment offered to Mr Sawle was appropriate in all the circumstances.

Investigation following the death of Mr Sawle

31. About 9.50am on 13 February 2019 police attended the Prince of Wales Hospital Secure Unit Cell 1. A Crime Scene was established and maintained. A test of the knock-up alarm was conducted which was found to be in functioning order. Photographs were taken and Mr Sawle's body was transferred to the Department of Forensic Medicine at Lidcombe. CCTV was later obtained and reviewed and was in accordance with the accounts of Corrective Service Officers and NSW Police.

32. Mr Sawle was formally identified by way of fingerprint analysis.[8]

33. A limited autopsy report was prepared by Doctor Dianne Little on 7 March 2019. Doctor Little concluded that the direct cause of death was acute myocardial infarction with an antecedent cause of ischaemic heart disease. A post mortem CT scan confirmed an enlarged heart with calcification of the coronary arteries. Also noted on the CT scan was a mass in the left kidney, in keeping with a renal cell carcinoma. No significant injuries were seen to the body, with only senile ecchymoses (bruising associated with fragile elderly skin) on the arms and legs. [9] There were no suspicious or unexpected findings.

34. I am satisfied that Mr Sawle's death was due to natural causes and that he was provided with appropriate care. He had significant co-morbidities at the time of death.

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[6] Exhibit 1, Tab 3
[7] Exhibit 1, Tab 12
[8] Exhibit 1, Tab 2
[9] Limited Autopsy Report, Exhibit 1, Tab 4

Conclusion

35. I thank members of Mr Sawle's family who attended this inquest. I offer his family my respect at this time.

36. I thank those assisting me in the investigation and in preparation of this inquest.

37. I close this inquest.

Findings

38. The findings I make under section 81(1) of the Act are:

    Identity
    The person who died was Francis Sawle

    Date of death
    He died on 13 February 2019

    Place of death
    He died at Prince of Wales Hospital, Randwick NSW

    Cause of death
    He died of an acute myocardial infarction caused by ischaemic heart disease.

    Manner of death
    He died in hospital of natural causes.

Magistrate Harriet Grahame
Deputy State Coroner
12 February 2020
NSW State Coroner's Court, Lidcombe