

RELEASE DATE: January 28, 2025



THE PROVINCIAL COURT OF MANITOBA

IN THE MATTER OF: ***THE FATALITY INQUIRIES ACT, C.C.S.M. c.F52***

AND IN THE MATTER OF: An Inquest into the death of Timothy Koltusky
(DATE OF DEATH: March 12, 2019)

**Report on Inquest
Senior Judge Donald Slough
Issued this 23rd day of January 2025**

APPEARANCES:

Joel Refvik, Inquest Counsel

Alicia Dueck-Read, Counsel for Correctional Service Canada

Megan Smith, Counsel for Shared Health Manitoba



MANITOBA

***THE FATALITY INQUIRIES ACT*, C.C.S.M. c.F52 REPORT BY PROVINCIAL JUDGE ON AN INQUEST INTO THE DEATH OF: TIMOTHY KOLTUSKY**

An Inquest respecting the deaths of Timothy Koltusky (DOB: January 25, 1985) was held on July 15 - 17, 2024 in the City of Winnipeg, Province of Manitoba. This report contains my findings and observations. Pursuant to the provisions of *The Fatality Inquiries Act*, I am ordering that all the exhibits be returned to the Exhibit Officer, Provincial Court of Manitoba, to be released only upon application with notice to any party with a privacy interest.
Dated at the City of Winnipeg, in Manitoba, this 23rd day of January 2025.

Senior Judge Donald Slough

Copies to:

1. Dr. John Younes, Chief Medical Examiner (2 copies)
2. Chief Judge Ryan Rolston, Provincial Court of Manitoba
3. Honourable Matt Wiebe, Minister Responsible for *The Fatality Inquiries Act*
4. Mr. Jeremy Akerstream, Deputy Minister of Justice & Deputy Attorney General
5. Michael Conner, Assistant Deputy Attorney General
6. Michele Jules, Executive Director of Manitoba Prosecution Service
7. Joel Refvik, Inquest Counsel
8. Alicia Dueck-Read, Counsel for Correctional Service Canada
9. Megan Smith, Counsel for Shared Health Manitoba
10. Exhibit Coordinator, Provincial Court of Manitoba
11. Aimee Fortier, Executive Assistant and Media Relations, Provincial Court of Manitoba

INTRODUCTION

[1] Inquest report regarding the death Timothy Koltusky, dated January 23, 2025.

[2] This report examines the circumstances surrounding the death of Timothy Koltusky on March 12, 2019, at Stony Mountain Institution. *The Fatality Inquiries Act* requires, pursuant to s. 19(5)b, that an Inquest be held when the deceased person is a resident of a custodial facility.

[3] In a letter dated January 27th, 2022, the Chief Medical Examiner of Manitoba directed the Chief Provincial Court Judge of Manitoba, to convene an Inquest examining the circumstances of Timothy Koltusky's death and to determine what if anything, could be done to prevent similar deaths from occurring in the future.

[4] On July 15, 16, and 17, 2024, I heard evidence with respect to the circumstances surrounding Timothy Koltusky's death by suicide. This is my report containing my observations with respect to his death.

JURISDICTION

[5] Stony Mountain Institution is a federal penitentiary. Previous decisions of this Court stipulate that an Inquest called by the Chief Medical Examiner of Manitoba lacks jurisdiction to make recommendations to the federal authorities responsible for the operation of penitentiaries in Canada. Nevertheless, this court can identify deficiencies within the operation of the penitentiary system that contributed to the

death. It is then up to Correctional Service of Canada to determine what action be taken with respect to identified deficiencies. Accordingly, I will not be making any recommendations.

[6] I should note notwithstanding the jurisdictional limitations, this court had the full cooperation of the Correctional Service of Canada in the calling of evidence in this inquiry. In addition, counsel for the province provided thoughtful and thorough representation as this Court examined the circumstances surrounding Timothy Koltusky's death.

[7] Timothy Koltusky's family did not request standing and were not represented by counsel at this Inquest. Counsel for Shared Health Manitoba appeared at the Inquest, but due to the circumstances of Timothy Koltusky's death had limited participation.

ISSUES TO BE EXAMINED

[8] Three issues were examined at this Inquest. The first pertained to the events of March 12, 2019, the date of Timothy Koltusky's death. The last two issues relate to whether Timothy Koltusky's known mental health issues or bullying by other inmates can be linked to his suicide.

[9] The answer to the last two issues requires a review of Timothy Koltusky's offending history and background.

BACKGROUND OF TIMOTHY KOLTUSKY

[10] Timothy Koltusky's background can only be described as difficult. Reports indicate that his biological parents were alcohol and drug abusers and played no role in his childhood. After time in foster care, he was placed with relatives and remained in their care until the age of 16. Timothy Koltusky advised Corrections that he suffered physical and sexual abuse during his childhood.

[11] While under the age of eighteen, he was involved in offences including arson and assault. At the age of twenty, he became involved in the offences resulting in his incarceration for much of the remainder of his life.

[12] The first of these offences occurred on August 8th, 2005. On that date, Timothy Koltusky offered a sex trade worker \$50.00 to accompany him to the riverbank. Once at that location Timothy Koltusky punched and kicked the victim in the head and body multiple times, twisting her hair with both hands. Fearing for her life, the victim started screaming, Timothy Koltusky stopped the assault and the victim ran away.

[13] Two days later, Timothy Koltusky approached an 18-year-old sex trade worker offering her \$50.00 to "have fun" with him. As in the first incident, he led her to the riverbank. He asked the victim to turn her back to him and close her eyes. When she complied, he began fondling and kissing her. The victim advised Timothy Koltusky that she would not proceed until she had the \$50.00 he had promised her

and requested to go to another location, as she did not feel comfortable. Timothy Koltusky then attempted to use a shoelace to choke the victim, but she was able to get her hand on the shoelace preventing him from doing so. Timothy Koltusky then dropped the shoelace and placed the victim in a chokehold with his hands and arms. She had trouble breathing and reported to the police that she nearly lost consciousness. During the struggle, Timothy Koltusky punched and kicked her several times. Timothy Koltusky ripped off all the victim's clothing. Ultimately, the victim freed herself and ran to a nearby house for help and was taken to the hospital.

[14] Police arrested Timothy Koltusky two days later. A search of a backpack belonging to Timothy Koltusky revealed five pairs of soiled women's underwear, and two pieces of rope, one of which had a slipknot at the end.

[15] While in custody, Timothy Koltusky sexually harassed a female defence lawyer who was unknown to him. The calls were of an obscene and sexual nature.

[16] Five years after the commission of these offences, Timothy Koltusky received an eight-year sentence for these offences and 10-year long term offender order. Most of the eight-year sentence consisted of time already served. Starting in 2012, Timothy Koltusky continually breached the long-term sentence order resulting in a six-month sentence in 2012, a 13-month sentence in 2013, a 30-month sentence in 2014 and a 35-month sentence in 2018. Timothy Koltusky served these sentences at a number of institutions including Bowden Institution which has a large population

of sex offenders. Timothy Koltusky's final sentence was served at Stony Mountain Institution.

[17] Stony Mountain Institution is the only federal facility in Manitoba. It consists of a minimum-security site, a medium security site, and a maximum-security site. Evidence at the Inquest indicated it has the highest population of any federal institution in Canada and at least part of it would be the oldest, having opened in 1877. (I note Manitoba is the only Western province without an Indigenous Healing Lodge something which would provide an invaluable service to Manitoba residents serving Federal time.)

[18] Psychiatric assessments diagnosed Timothy Koltusky as having a personality disorder with antisocial, borderline, and narcissistic traits. He was diagnosed as a sexual sadist. A specialized sex offender risk assessment conducted by a psychologist in 2015 indicated that Timothy Koltusky had longstanding anti-social behavior traits exhibited through sexualized and violent offending and was at a very high risk of reoffending.

[19] Given this evidence, the only conclusion that can be reached was that Timothy Koltusky was a dangerous sexual offender.

SELF-HARM

[20] A review of Timothy Koltusky's medical history reveals a suicide attempt in 2002 while a youth. A second attempt occurred in 2008 while in custody in a

provincial institution. He attempted suicide by wrapping his head with packing tape but changed his mind and was saved by the intervention of correctional officers. Overall, he was diagnosed as having a long-standing history of depression which was treated by anti-depressant medications while he was in custody.

THE CIRCUMSTANCES OF TIMOTHY KOLTUSKY'S DEATH

[21] On March 12, 2019, at approximately 0050 hours a correctional officer conducting a security patrol of unit 3 observed Timothy Koltusky hanging from a ligature in his cell. The ligature was made of clear plastic garbage gas bags and attached to an electrical conduit pipe on the ceiling of the cell. Following unsuccessful attempts to revive him Timothy Koltusky was pronounced dead at 0125 hours on March 12, 2019. The cause of death being suicide by hanging.

[22] A Correctional Services of Canada Board of Inquiry convened on May 13th, 2019. The Board of Inquiry examined areas including, the existence of pre- incident indicators, precipitating events or contributing risk factors to the incident under investigation; security classification of the inmate involved in this incident and his placement at Stony Mountain Institution, the mental health care provided to the inmate in the six months prior to his death, staff presence and monitoring of inmate activities, staff response to the incident including medical interventions. The report produced by the Board of Inquiry was filed as Exhibit 3 in this Inquest. Having carefully reviewed that report I am satisfied the steps taken by correctional officers

on March 12, 2019, were appropriate, to try to save Timothy Koltusky. Evidence at the Inquest from the acting warden at the time, supported this conclusion. Information contained in the report of the Board of Inquiry relating to mental health and bullying was the subject of evidence called at the Inquest, and I will examine these two issues in more detail.

INTAKE AND PLACEMENT

[23] The court heard evidence regarding the intake process that determines where an offender will be placed within an institution. The intake process also focuses on the offender's mental health including the possibility that they may harm themselves.

[24] Timothy Koltusky's history of suicide attempts was known and flagged. The evidence at the Inquest suggested that this history would have been considered in determining his placement within the institution. Timothy Koltusky was placed in Unit 3. This is not a general population unit. Testimony by the individual responsible for placement indicated that Unit 3 was utilized for protective custody, including ex-gang members not in good standing and those inmates having a known history of sexual offending. Timothy Koltusky was placed in Unit 3 because he was a known high profile sexual offender. As such he would be a target for violence and bullying. Unit 3 differs from the general population units in that it was a closed unit. A closed unit requires any movement off that unit by an offender for visits, to health services, to psychology, to programming etc., be under escort by a correctional officer or

occurs at a time when only residents of Unit 3 are moving within the institution. Only one other unit in Stony Mountain, at that time, would have been more restrictive. This was the Administrative Segregation Unit. Witness described that unit as extremely controlled with access to programming, exercise and recreation being significantly reduced. Only one inmate in that unit could be out of their cells at any given time. This resulted in inmates in that unit spending inordinate amounts of time in their cells isolated from other contact. (Shortly after Timothy Koltusky's death, Administrative Segregation Units in all federal institutions ceased to exist being replaced by the Structured Intervention Unit which allows for better more access to programming and recreation.)

BULLYING

[25] Timothy Koltusky's file disclosed he was the subject of bullying while in Unit 3. When asked for comment, a correctional officer called at the Inquest stated that offenders with well known sexually related offences are vulnerable to such acts and maybe required to pay "rent" to remain on that unit and that if they do not pay the "rent" they might be assaulted or items taken from their cell by other inmates. The officer indicated that very little of this behavior is reported to the guards or parole officers who interact with the inmates. The reason for this is that anyone providing information or complaining to correctional authorities about bullying would be labeled a rat. In Timothy Koltusky's case this would have been in addition to being

a sexual offender making him that much more likely to be subject to attacks by other inmates.

THE INMATE'S CODE

[26] Evidence was called at the Inquest with respect to what is described as the inmate's code. This is the behavior expected of inmates by other inmates in the institution. The relevant aspect of the inmate code is not to cooperate with authorities. Anyone believed to be cooperating with authorities is deemed to be a rat or a snitch and that will be looked upon very unfavorably, resulting in extreme violence, even death at the hands of other inmates.

[27] The evidence disclosed that there is a hierarchy within the institution and that inmates doing time for crimes like murder or high-level gang associations at the top of the hierarchy. Those doing time for sexual offences or those deemed to be rats or snitches are at the bottom of the hierarchy. Those at the bottom of the hierarchy will find themselves ostracized and subject to extortion for being permitted to reside in a general population or a closed unit like the one where Timothy Koltusky was placed. The code is self governing within the institution.

[28] Evidence indicated that when bullying behavior comes to the attention of correctional authorities, they will try to use other inmates to intervene and try to resolve the issue between the inmates before taking measures such as cell searches that impact all members of the unit.

[29] In a psychological report dated January 15th, 2019, approximately two months before Timothy Koltusky took his life, in speaking to a psychologist, he reported feelings of anxiety resulting from being threatened or muscled by other inmates because he was a known sexual offender, stating: certain individuals make my life “a living hell”. When asked by Crown counsel if this disclosure would trigger a transfer to another unit or institution the witness indicated such a transfer would only come about if it was requested by the inmate. Timothy Koltusky made no such request.

[30] There is no way of knowing what was going on in Timothy Koltusky's mind, but I would note that at that time a transfer to another unit within Stony Mountain Institution would have meant transfer to the Administrative Segregation Unit. Given the conditions in that unit, which I have already described, that transfer would amount to trading one living hell for another. There is no other evidence of additional bullying in the months leading up to Timothy Koltusky's death, so it is difficult to know what role his problems on unit 3 played in his decision to take his own life.

[31] The last witness called at the Inquest was Timothy Koltusky's parole officer, Brice Beirnes. Mr. Beirnes was directly responsible for dealing with Timothy Koltusky while he was in Stony Mountain Institution. Mr. Beirnes outlined his training with respect to suicide and self-injury intervention and general mental health training. He was aware that in the past Timothy Koltusky had attempted to commit

suicide. He testified that any history of suicide attempts is flagged on reports accessible to parole officers or any other members of the Correctional Service of Canada on a need-to-know basis. Mr. Beirnes indicated signs an inmate may be contemplating suicide include a deterioration in their personal hygiene, the giving away of their possessions, weight changes, and a refusal to participate in programming. Mr. Beirnes testified that in the entire time he supervised Timothy Koltusky there was not a single instance where Timothy Koltusky disclosed information or concerns relating to mental health issues or mental health destabilization. He testified that because of Timothy Koltusky's previous difficulties when released on supervision orders from the institution it was unlikely that Timothy Koltusky would be released on any form of parole. Mr. Beirnes indicated Timothy Koltusky appeared to accept this decision and did not appear despondent or upset. Timothy Koltusky never spoke to Mr. Beirnes about bullying.

[32] Mr. Beirnes testified that in the months leading up to Timothy Koltusky's suicide, he found Timothy Koltusky eager to complete his grade 12, in addition, Timothy Koltusky had started training in cabinetry work and woodworking and was very enthusiastic about this work indicating it was something he would like to pursue upon his release. He described Timothy Koltusky as forward thinking and not displaying any signs of mental health issues. Mr. Beirnes expressed shock regarding

Timothy Koltusky's suicide, indicating he saw no signs suggesting that Timothy Koltusky would take his own life.

[33] The court also heard evidence regarding Timothy Koltusky's state of mind in the hours immediately preceding his suicide. Another inmate in the same unit as Timothy Koltusky was a friend, having a similar background in terms of sexual offending, as well as coming from the same hometown as Timothy Koltusky, specifically Steinbach, Manitoba. After Timothy Koltusky's suicide, the inmate approached correctional authorities and told them that he had spoken to Timothy Koltusky during the evening of March 12th. The subject of the conversation being Timothy Koltusky's request that the other inmate try to find contact information for a woman in the Steinbach community that Timothy Koltusky was interested in contacting. When the inmate approached Timothy Koltusky to provide information, Timothy Koltusky was somewhat abrupt, apparently being annoyed about being interrupted while watching television. When the inmate learned of Timothy Koltusky's suicide, he expressed shock indicating that he had not seen any sort of mental health concerns or anything to suggest that Timothy Koltusky was contemplating taking his own life.

CONCLUSION

[34] It is impossible to know what prompted Timothy Koltusky to take his own life. As I indicated at the outset a review conducted by Correctional Services of

Canada found no procedural errors regarding Timothy Koltusky's supervision on the night of March 12th, 2019. I agree with that conclusion.

[35] In terms of mental health issues, the evidence suggested that while the Correctional Service of Canada, like all health care providers in Canada, face challenges in terms of staffing, there is nothing in the evidence to suggest that inadequate care or supervision contributed to Timothy Koltusky's death.

[36] On a couple of occasions, Timothy Koltusky raised concerns about bullying. However, he did not follow up with his parole officer or any other staff of Correctional Services of Canada.

[37] The evidence establishes that everyone who dealt with Timothy Koltusky over the last months and days of his life found him to be forward thinking, engaged in institutional programming and work, moving forward with his life. Based on the evidence presented at this Inquest I find that Timothy Koltusky's death, while tragic, was not preventable.

I respectfully conclude and submit this report on this 23rd day of January 2025, at the City of Winnipeg, in the Province of Manitoba.

Senior Judge Donald Slough
Provincial Court of Manitoba