JURISDICTION	**:**	CORONER'S COURT OF WESTERN AUSTRALIA
ACT	**:**	CORONERS ACT 1996
CORONER	**:**	MICHAEL ANDREW GLIDDON JENKIN
HEARD	**:**	28 SEPTEMBER 2022
DELIVERED	**:**	5 OCTOBER 2022
FILE NO/S	**:**	CORC 216 of 2021
DECEASED	**:**	RICE, DAVID ARTHUR

Catchwords:

Nil

Legislation:

Coroners Act 1996 (WA)
Prisons Act 1981 (WA)

Appearances:

Sergeant A. Becker assisted the coroner.

Ms G. Beck (State Solicitor's Office) appeared for the Department of Justice.

Coroners Act 1996
(Section 26(1))

AMENDED RECORD OF INVESTIGATION INTO DEATH

I, Michael Andrew Gliddon Jenkin, Coroner, having investigated the death of ***David Arthur RICE*** *with an inquest held at Perth Coroners Court, Central Law Courts, Court 85, 501 Hay Street, Perth, on 28 September 2022, find that the identity of the deceased person was* ***David Arthur RICE*** *and that death occurred on 23 January 2021 at Fiona Stanley Hospital from acute bronchopneumonia in a man with comorbidities in the following circumstances:*

Table of Contents

INTRODUCTION

1. Mr David Arthur Rice (Mr Rice) died on 23 January 2021 at Fiona Stanley Hospital from complications of acute bronchopneumonia. At the time of his death, Mr Rice was a sentenced prisoner in the custody of the Chief Executive Officer of the Department of Justice (DOJ). Accordingly, Mr Rice was a "*person held in care*" and his death was a "*reportable death*".[1,2,3,4,5,6,7,8,9]

2. In such circumstances, a coronial inquest is mandatory.[10] Where, as here, the death is of a person held in care, I am required to comment on the quality of the supervision, treatment and care that the person received whilst in that care.[11]

3. Accordingly, on 28 September 2022, I held an inquest into Mr Rice's death. The documentary evidence adduced at the inquest included reports prepared by the Western Australia Police Force[12] and DOJ[13] respectively, which together comprised one volume.

4. The following witnesses gave evidence at the inquest:

a. Dr Catherine Gunson, Acting Director Medical Services, DOJ;[14] and

b. Ms Toni Palmer, Senior Review Officer, DOJ.[15]

5. The inquest focused on the care provided to Mr Rice while he was in custody, and the circumstances of his death.

---

[1] Exhibit 1, Vol 1, Tab 1, P100 - Report of Death (25.01.21)
[2] Exhibit 1, Vol 1, Tab 4, P92 - Identification of deceased person other than by visual means (23.01.21)
[3] Exhibit 1, Vol 1, Tab 4, Affidavit - Sen. Const. S Barnes (23.01.21)
[4] Exhibit 1, Vol 1, Tab 4, Affidavit - Sen. Const. D Walker (23.01.21)
[5] Exhibit 1, Vol 1, Tab 4, Coronial Identification Report (Fingerprints) (23.01.21)
[6] Exhibit 1, Vol 1, Tab 5, Death in Hospital form - Fiona Stanley Hospital (23.01.21)
[7] Exhibit 1, Vol 1, Tab 6.1, Supplementary Post Mortem Report (15.10.21)
[8] Section 16, *Prisons Act 1981* (WA)
[9] Sections 3 & 22(1)(a), *Coroners Act 1996* (WA)
[10] Section 22(1)(a), *Coroners Act 1996* (WA)
[11] Section 25(3) *Coroners Act 1996* (WA)
[12] Exhibit 1, Vol 1, Tab 2, Report - FC. Const. C Chapman (27.10.21)
[13] Exhibit 1, Vol 1, Tab 17, Death in Custody Review (04.08.22)
[14] ts 28.09.22 (Gunson), pp3-14
[15] ts 28.09.22 (Palmer), pp14-21

MR RICE

Background[16,17]

6. Mr Rice was born in Narrogin on 9 May 1945 and was 75-years of age when he died. He left school during Year 8 and had no formal trade or academic qualifications. Mr Rice had worked in various jobs including the mining industry, for a local government, in the meat industry, and as a truck driver in his own business.

7. Mr Rice was deployed to Vietnam from May 1966 to May 1967 as a member of a transport platoon that was part of the Royal Australian Service Corps in the Australian Army. Mr Rice had one daughter from a previous marriage.

Criminal history[18,19,20,21]

8. Mr Rice had an extensive criminal history, and by the time of his incarceration in 2020, he had accumulated 52 convictions. The majority of his criminal behaviour related to sexual offences against children and Mr Rice had convictions for possession of child pornography, indecent dealings with children, and sexual penetration of a child.

9. Prior to the prison sentence he received in 2020, Mr Rice had received terms of imprisonment in relation to child sex offences in 2006 (five years and eight months); 2013 (three years and eight months); and 2015 (six years and six months).[22,23,24]

10. On 1 May 2020, in the District Court of Western Australia at Perth, Mr Rice was also sentenced to 11 years' imprisonment for numerous child sex offences. His earliest parole eligibility date was calculated to be 22 July 2030.[25,26]

---

[16] Exhibit 1, Vol 1, Tab 2, Report – FC. Const. C Chapman (27.10.21), p2
[17] Exhibit 1, Vol 1, Tab 17, Death in Custody Review (04.08.22), p7
[18] Exhibit 1, Vol 1, Tab 17.2, Criminal history - Mr D Rice
[19] Exhibit 1, Vol 1, Tab 17.3, Sentence Summary - Offender
[20] Exhibit 1, Vol 1, Tab 2, Report - FC. Const. C Chapman (27.10.21), p2
[21] Exhibit 1, Vol 1, Tab 17, Death in Custody Review (04.08.22), p7
[22] Exhibit 1, Vol 1, Tab 16.4, Sentencing remarks, Yeats DCJ, (11.04.06), pp406-412
[23] Exhibit 1, Vol 1, Tab 16.3, Sentencing remarks, Wager DCJ, (12.06.13), pp25-30
[24] Exhibit 1, Vol 1, Tab 16.2, Sentencing remarks, Bowden DCJ, (23.01.15), pp12-17
[25] Exhibit 1, Vol 1, Tab 17, Death in Custody Review (04.08.22), p7
[26] Exhibit 1, Vol 1, Tab 16.1, Sentencing remarks, MacLean DCJ, (01.05.20), pp32-42

Prison history[27]

11. Mr Rice was most recently admitted to prison on 30 May 2013, when he was received at Hakea Prison (Hakea). He remained in custody from that time onwards and was variously accommodated at Acacia Prison (Acacia), Casuarina Prison (Casuarina) and Bunbury Regional Prison (Bunbury). Mr Rice's last three prison placements were as follows:

a. ***Casuarina:***
7.10.16 - 22.11.16 (46 days)

b. ***Acacia:***
22.11.16 - 27.10.20 (1,435 days)

c. ***Casuarina:***
27.10.20 - 23.01.21 (88 days)

12. When he was admitted to Hakea on 30 May 2013, Mr Rice disclosed that about a decade before, he had attempted to hang himself. Although he also said he had various medical issues, the reception officer's assessment was that Mr Rice was not at risk of self-harm or suicide. As a result, Mr Rice was not placed on the At Risk Management System (ARMS) or the Support and Monitoring System (SAMS) at any stage during his incarceration.

13. ARMS is DOJ's primary suicide prevention strategy, and aims to provide staff with clear guidelines to assist with the identification and management of prisoners at risk of self-harm and/or suicide. SAMS is the Department's secondary measure to manage prisoners deemed to be at long-term risk of self-harm and/or suicide.[28]

14. A management and placement checklist completed on 18 June 2013 assessed Mr Rice's security rating as "*medium*", and he retained this classification for the remainder of his time in prison. Due to the nature of his offending Mr Rice was initially housed in a protection unit, and in view of his age and medical history he was unable to undertake prison employment.[29]

[27] Exhibit 1, Vol 1, Tab 17, Death in Custody Review (04.08.22), pp8-21
[28] ARMS Manual (2019), pp2-13 & 21-24
[29] Exhibit 1, Vol 1, Tab 17.5, Management and Placement Checklist - Sentenced (18.06.13)

15. As a result of assessments conducted in July 2013, it was recommended that Mr Rice undertake DOJ's medium intensity sex offender program which is designed to reinforce previous treatment gains, and reduce the risk of re-offending. By 2014, Mr Rice had been transferred to Bunbury for this purpose, and he was housed in the self-care unit on the basis of his exemplary behaviour.[30]

16. Although Mr Rice participated in the Sex Offender Intensive Program (SOIP), he did not complete the SOIP because of absences caused by his attendance at numerous medical appointments. Mr Rice had been due to complete the "*Cognitive Skills Think First*" program at Acacia in the first quarter of 2015, but he refused to do so after being told he had been deemed a "*non-completer*" in relation to the SOIP.[31]

17. During his classification review on 30 March 2016, Mr Rice expressed interest in having his security classification reduced to "*minimum*". He also said he would prefer to be transferred to Pardelup Prison Farm "*if the opportunity arose*". However, Mr Rice's individual management plan (which was also completed on 30 March 2016) stated that his security classification would remain unchanged at "*medium*" and that Mr Rice would continue to be housed at Acacia.[32,33]

18. Other than an incident in 2017, when he was reprimanded for using threatening/insulting language to a prison officer, Mr Rice was not convicted of any prison offences. Regular assessments completed between 2013 and 2020 describe Mr Rice "*as a generally polite and well-behaved prisoner*". Whilst incarcerated, Mr Rice was subjected to 12 drug and alcohol screens, all of which were negative. He received regular visits from family members and sent several letters, mostly when he was being housed at Acacia.[34,35,36,37,38]

[30] Exhibit 1, Vol 1, Tab 17.18, Cognitive skills assessment (15.07.13)
[31] Exhibit 1, Vol 1, Tab 17.13, Classification review (23.12.14)
[32] Exhibit 1, Vol 1, Tab 17.16, Classification review (30.03.16)
[33] Exhibit 1, Vol 1, Tab 17.16, Individual management plan (30.03.16)
[34] Exhibit 1, Vol 1, Tab 17.20, Regular contact reports (2013 - 2020)
[35] Exhibit 1, Vol 1, Tab 17.22, Substance use test results
[36] Exhibit 1, Vol 1, Tab 17.23, Charge history - Prisoner
[37] Exhibit 1, Vol 1, Tab 17.19, Visits history - Offender
[38] Exhibit 1, Vol 1, Tab 17.21, Prisoner Mail records

19. At the time of his death Mr Rice had several current alerts on the Total Offender Management Solution (known as TOMS, which is the computer system DOJ uses for prisoner management). The alerts included: "*high-risk sexual offender*", "*post-sentence supervision orders*", "*violence restraining orders*" and "*victim notification alerts*".[39]

Management on the terminally ill register[40,41]

20. At the time of Mr Rice's death, prisoners with a terminal illness were managed in accordance with a DOJ policy known as "*Policy Directive 8 Prisoners with a Terminal Medical Condition*" (PD8). In passing I note that from 28 June 2021, prisoners with a terminal illness have been managed under a new policy referred to as *COPP 6.2 Prisoners with a Terminal Medical Condition* (COPP6.2), which is in similar terms to PD8.[42] In any case, PD8 defines "*terminal medical condition*" as:

> One or more medical conditions that on their own or as a group may significantly increase a prisoner's potential to die in custody, having regard to the nature of the condition(s) and the length of the prisoner's sentence.[43]

21. Under PD8, once a prisoner is identified as having a terminal illness, a note is made in the terminally ill module of TOMS. The prisoner's expected prognosis is designated by identifying them as Stages 1, 2, 3, or 4. From 12 June 2019 onwards, Mr Rice was identified as either a Stage 3 prisoner, meaning his death was expected within 3-months or as Stage 4 prisoner, meaning his death was expected imminently.[44]

22. One implication for a prisoner being identified as terminally ill relates to the monitoring the prisoner receives, however all prisoners with serious health conditions receive regular reviews, regardless of whether they are on the terminally ill list or not. Another implication is that Stage 3 and 4 sentenced prisoners may be considered for early release pursuant to an exercise of the Royal Prerogative of Mercy (RPOM).[45]

---

[39] Exhibit 1, Vol 1, Tab 17, Death in Custody Review (04.08.22), p21
[40] Exhibit 1, Vol 1, Tab 17, Death in Custody Review (04.08.22), pp6 & 22-23 and ts 28.09.22 (Palmer), pp15-21
[41] Exhibit 1, Vol 1, Tab 19, Health Services Summary - DOJ (23.09.22), pp4-5
[42] Exhibit 1, Vol 1, Tab 17.25, Policy Directive 8 Prisoners with a Terminal Medical Condition
[43] Exhibit 1, Vol 1, Tab 17.25, Policy Directive 8 Prisoners with a Terminal Medical Condition, p2 (para 4)
[44] Exhibit 1, Vol 2, Tab 17.25, Policy Directive 8 Prisoners with a Terminal Medical Condition, pp2-6 (paras 4.1.1-4.4.6)
[45] Exhibit 1, Vol 1, Tab 17, Death in Custody Review (04.08.22), p22 and ts 28.09.22 (Gunson), pp13-14

23. Mr Adam Leach (a senior project officer with DOJ) conducted a review of the circumstances of Mr Rice's death in order to identify any "*systemic issues and operational risks that may need to be addressed to prevent similar deaths from happening in the future*".[46] Mr Leach made one finding which he set out in a document entitled "*Review of Death in Custody*" (DIC Review). The DIC Review was checked and adopted by Ms Toni Palmer (a senior review officer with DOJ), who gave evidence at the inquest.

24. Mr Leach found that contrary to the provisions of PD8, a briefing note in relation to Mr Rice's early release pursuant to an exercise of the RPOM had not been sent to the Minister for Corrective Services (the Minister) when Mr Rice was placed on the terminally ill prisoner list on 12 June 2019. This failure was said to have occurred because of "*resource constraints*", and because the position of the person responsible for drafting such briefing notes had been abolished in 2017.[47]

25. A similar error occurred when Mr Rice was identified as a Stage 4 prisoner on 4 January 2021. Although by then DOJ's sentence management unit had been provided with an additional staff member to draft such briefing notes, at the relevant time the occupant of the position was on leave and had not been replaced. At the inquest, Ms Palmer also conceded that briefing notes had not been prepared in 2020 either, but was unable to identify why this was so.[48]

26. Given Mr Rice's offending history, the heavy sentence he received on 1 May 2020, and his complex medical conditions, it is probably very unlikely that he would have been released pursuant to an exercise of the RPOM. Nevertheless, as Mr Leach relevantly pointed out:

> By not preparing the briefing note to the Minister as required by the policy, Mr Rice could not be considered for early release through the exercise of RPOM unless he (Mr Rice) made such an application to the Attorney General himself.[49]

[46] Exhibit 1, Vol 1, Tab 17, Death in Custody Review (04.08.22), p4
[47] Exhibit 1, Vol 1, Tab 17, Death in Custody Review (04.08.22), p22 and ts 28.09.22 (Palmer), pp18-19
[48] Exhibit 1, Vol 1, Tab 17, Death in Custody Review (04.08.22), pp22-23 and ts 28.09.22 (Palmer), pp19-20
[49] Exhibit 1, Vol 1, Tab 17, Death in Custody Review (04.08.22), p23

27. Having made that finding, Mr Leach recommended that in the absence of the person responsible for submitting briefing notes to the Minister in relation to the early release of terminally ill prisoners under the RPOM, a delegate should be appointed to undertake the task. In relation to actions taken following Mr Leach's recommendation, the DIC Review notes:

> At the time of this incident, there was only one person responsible for undertaking the Briefing Notes, however, this has since changed with another person being responsible for completing Briefing Notes whenever absences occur. In addition, two further positions will also monitor the Terminally Ill register to further ensure Department Policy is followed.[50]

28. The DIC Review states that the responsible officer in relation to this recommended action was "*Director Sentence Management*" and that the relevant action was "*complete*".[51]

MEDICAL ISSUES

Medical conditions[52,53,54]

29. Prior to his admission to prison, Mr Rice had been described as an alcoholic,[55] and he was a very heavy smoker with a 40-pack year history.[56] He reportedly ceased smoking in 2017.

30. His complex medical history included: peripheral vascular disease (with femoral artery bypass grafting in 2003, and angioplasty in 2007), ischaemic heart disease (with a heart attack and coronary artery bypass grafts in 2016), congestive cardiac failure, atrial fibrillation, high blood pressure, type-2 diabetes, and chronic obstructive pulmonary disease (COPD). Mr Rice was also diagnosed with chronic kidney disease, and post-traumatic stress disorder, reportedly related to his military service.

[50] Exhibit 1, Vol 1, Tab 17, Death in Custody Review (04.08.22), p23
[51] Exhibit 1, Vol 1, Tab 17, Death in Custody Review (04.08.22), p23
[52] Exhibit 1, Vol 1, Tab 19, Health Services Summary - DOJ (23.09.22), pp3-4 & 12 and ts 28.08.22 (Gunson), pp7-14
[53] Exhibit 1, Vol 1, Tab 18, Health Services Summary - Acacia Prison (29.08.22, received on 16.09.22)
[54] Hospital medical records (URN J7925706 - various dates and hospitals)
[55] Exhibit 1, Vol 1, Tab 16.4, Sentencing remarks, Yeats DCJ, (11.04.06), pp406-412
[56] The term "40 pack-year history" describes a person who smokes 40 cigarettes per day for 20-years

31. In 2010, Mr Rice received chemoradiotherapy for tonsillar cancer and a CT scan on 2 July 2020 showed no recurrence of the tumour. He was also diagnosed with an enlarged prostate and degeneration of his lumbar spine. Further, in addition to the surgical procedures I have referred to, Mr Rice also underwent a right groin hernia repair, cataract surgery, and in 2018 his gangrenous gallbladder was removed.

Overview of medical management[57,58,59,60]

32. Although Mr Rice was regularly seen in prison medical centres, records show he often declined recommended diagnostic tests and/or specialist referrals, and he was often non-compliant with prescribed medication. Nevertheless, during his incarceration, Mr Rice was the subject of diabetes, respiratory, and cardiovascular care plans. His heart function was regularly monitored and he received input from a variety of health professionals including: podiatrists, vascular surgeons, dieticians, speech therapists, cardiologists, ophthalmologists, dentists, and oral surgeons.

33. Mr Rice's COPD was comprehensively reviewed in 2014, however he refused spirometry testing for fear it would exacerbate his dry mouth and throat symptoms. His COPD management was also reviewed during a hospital admission in 2020, and he was started on different inhaler medications. Over time, Mr Rice's health gradually deteriorated and as noted, he was added to the Terminally Ill prisoner list on 12 June 2019. During 2020, Mr Rice was admitted to hospital on several occasions for urinary retention, chest infections, breathing issues, and leg pain.

34. Although Mr Rice's swallowing difficulties had been repeatedly discussed with him, he was reportedly reluctant to accept changes to his diet (e.g.: pureed meals) that would have reduced his risk of aspiration. A review of the health services provided to Mr Rice at Casuarina was conducted by DOJ after his death (the DOJ Review). As the DOJ Review correctly notes, where a prisoner is competent to make their own decisions (as Mr Rice was), they "*cannot be forced to make recommended changes against (their) will*".[61]

[57] Exhibit 1, Vol 1, Tab 19, Health Services Summary - DOJ (23.09.22), p4 and ts 28.08.22 (Gunson), pp7-14
[58] Exhibit 1, Vol 1, Tab 18, Health Services Summary - Acacia Prison (29.08.22, received on 16.09.22)
[59] Hospital medical records (URN J7925706 - various dates and hospitals)
[60] Exhibit 1, Vol 1, Tab 12, EcHO medical records (2020-2021)
[61] Exhibit 1, Vol 1, Tab 19, Health Services Summary - DOJ (23.09.22), pp12 & 13

35. The risk of aspiration had been explained to Mr Rice and he had been warned of the consequences if he did aspirate, namely pneumonia and potentially death. Despite these warnings, and encouragement from staff, Mr Rice maintained his objection to modifying his diet.

36. As I will discuss later in this Finding, the forensic pathologists who conducted the post mortem examination of Mr Rice's body expressed the opinion that the bronchopneumonia they identified in Mr Rice's right lung was possibly caused by aspiration.[62] Whilst Mr Rice was obviously entitled to make decisions about his medical treatment, including his diet, he is also responsible for the consequences of those decisions. It is possible that Mr Rice's refusal to modify his diet may have played a role in his death.

Hospital admissions in 2020[63,64,65,66,67,68,69]

37. On 5 August 2020, Mr Rice was admitted to Fiona Stanley Hospital (FSH) with ketosis[70] after fasting for an elective colonoscopy and was discharged on 7 August 2020. On 25 August 2020, Mr Rice underwent an echocardiogram which showed normal systolic function of his left ventricle but severe bi-atrial enlargement. On 31 August 2020, a Code Blue medical emergency[71] was called after Mr Rice complained of a cough, chest pain, breathlessness, and leg pain and he was reviewed and subsequently cleared by a prison medical officer (PMO).

38. A Code Blue was also called on 9 September 2020 after Mr Rice complained of leg cramps and breathing issues. He was transferred to St John of God Midland Hospital (SJOG) where he was diagnosed with heart failure and an exacerbation of his chronic COPD. After treatment with intravenous diuretics, an iron transfusion (for anaemia), antibiotics, inhalers, and steroid medication he was returned to Acacia on 11 September 2020.

---

[62] Exhibit 1, Vol 1, Tab 6.1, Supplementary Post Mortem Report (15.10.21) and ts 28.08.22 (Gunson), pp8-9
[63] Exhibit 1, Vol 1, Tab 19, Health Services Summary - DOJ (23.09.22), pp5-12
[64] Exhibit 1, Vol 1, Tab 18, Health Services Summary - Acacia Prison (29.08.22, received on 16.09.22) pp106-149
[65] Hospital medical records (URN J7925706 - various dates and hospitals)
[66] Exhibit 1, Vol 1, Tab 17, Death in Custody Review (04.08.22), pp18-20
[67] Exhibit 1, Vol 1, Tab 12, EcHO medical records (2020-2021)
[68] Exhibit 1, Vol 1, Tab 11.1, FSH - Discharge Summary (12.11.20)
[69] Exhibit 1, Vol 1, Tabs 11.2 & 11.3, FSH - Discharge Summaries (07.01.21 & 22.01.21)
[70] A metabolic state characterized by elevated levels of ketone bodies in the blood or urine
[71] In **every** other prison in Western Australia, a medical emergency is referred to as a Code Red!

39. A Code Blue was called again on 12 October 2020 after Mr Rice developed right-sided chest pain and breathing issues. His oxygen saturations were low and he was transferred to SJOG where a further exacerbation of his COPD was diagnosed, along with angina secondary to a lack of oxygen (hypoxia). He was sent back to Acacia the same day.

40. On 16 October 2020, Mr Rice underwent a flexible cystoscopy to treat his enlarged prostate and was returned to Acacia with an indwelling urinary catheter. He was also treated for an infected toe and in view of his ongoing medical needs, he was transferred to the Casuarina infirmary on 27 October 2020, and he remained there for the rest of his life.

41. Although Mr Rice was reviewed by a cardiologist at FSH on 30 October 2020 and was reported to be stable, on 9 November 2020, a PMO noted Mr Rice had experienced recurrent episodes of low blood pressure. His diuretic and blood pressure medications were withheld, and his blood pressure was closely monitored over the next few days.

42. On 11 November 2020 a routine blood test found that Mr Rice's potassium levels were high, and he was sent to FSH by ambulance. After being treated for dehydration, Mr Rice was returned to the Casuarina Infirmary the following day and encouraged to increase his fluid intake. A prison physiotherapist noted that Mr Rice's balance appeared to be affected, and a two-wheeled walker was recommended.

43. On 26 November 2020, Mr Rice was prescribed a course of antibiotics after being diagnosed with a urinary tract infection. On 1 December 2020, he was restarted on his diuretic medication after complaining of shortness of breath and swollen ankles, which are symptoms consistent with cardiac failure. At around this time Mr Rice's condition was deteriorating, and he needed help to shower.

44. On 11 December 2020, Mr Rice was admitted to Sir Charles Gairdner Hospital (SCGH) for an angiogram and angioplasty of his right leg. The procedure was complicated by a blocked artery in his leg (tibial embolisation) which was treated with an alteplase, a medication that breaks down blood clots.

45. At about 3.00 pm on 12 December 2020, as Mr Rice was about to undergo a repeat angiogram he suddenly arrested. He was quickly resuscitated and following the angiogram procedure, he was returned to the intensive care unit. A bedside echocardiogram the following morning showed left ventricular dysfunction, and Mr Rice's recovery was complicated by ongoing right calf pain, difficulties with swallowing, low blood pressure, and a fall. He was started on pain medications including pregabalin and oxycodone and was transferred to Osborne Park Hospital (OPH) for rehabilitation.

46. During his admission to OPH, Mr Rice experienced persistent right foot drop, severe foot pain, and poor muscle control (ataxia) and he received regular physiotherapy and occupational therapy. After Mr Rice began experiencing severe abdominal pain, fever, vomiting, and faecal incontinence, he was transferred to SCGH on 3 January 2021, where he was diagnosed with urosepsis, bowel obstruction, and gout.

47. Although surgery was initially considered for his bowel obstruction, because of the very high risk of complications (including death) it was decided to manage Mr Rice conservatively. When analysis found the bacteria *Klebsiella pneumoniae* in his urine and a resistant strain of *E. coli* in his blood, Mr Rice was given intravenous antibiotics. He was reviewed by vascular surgeons on 6 January 2021, who felt that Mr Rice's right foot pain was due to poor blood flow (ischaemic neuropathy).

48. Mr Rice was also reviewed by the Acute Pain Team who recommended he be started on a combination of the pain medications tapentadol, nortriptyline, and pregabalin. As Mr Rice's apparent bowel obstruction had resolved and his condition was stable, he was returned to OPH on 7 January 2021. Whilst he was at OPH, adjustments were made to Mr Rice's pain medication in an effort to control his ongoing leg pain. An MRI of his head on 21 January 2021, showed an old infarct but no features to suggest a significant hypoxic insult after his recent cardiac arrest. Mr Rice's observations remained stable and he was transferred back to the Casuarina Infirmary on 22 January 2021.

EVENTS LEADING TO DEATH[72]

49. At about 7.50 am on 23 January 2021, a Code Red medical emergency was called after Mr Rice fell in the Casuarina Infirmary and was found semi-conscious under his bed. On examination, Mr Rice was pale, clammy, and unable to speak in sentences. Although his breathing rate was rapid, Mr Rice's oxygen saturations and blood pressure were low, and he was given oxygen therapy.

50. Emergency services were called at 8.15 am, and Mr Rice was taken to FSH by ambulance. A chest x-ray showed consolidation within his right lung, possibly due to aspiration, and he was diagnosed with right-sided pneumonia and septic shock.[73,74,75,76]

51. Mr Rice was transferred to the intensive care unit, but at about 1.50 pm, he went into cardiac arrest. Despite resuscitation efforts, Mr Rice could not be revived and he was declared deceased on 23 January 2021 at 2.10 pm.[77,78]

[72] Exhibit 1, Vol 1, Tab 17, Death in Custody Review (04.08.22), p20
[73] Exhibit 1, Vol 1, Tab 9, SJA Patient Care record - KWI142DD (23.01.21)
[74] Exhibit 1, Vol 1, Tab 10, FSH - Emergency Medicine Summary (23.01.21)
[75] Exhibit 1, Vol 1, Tab 10, FSH - Adult Triage Nursing Assessment (23.01.21)
[76] Exhibit 1, Vol 1, Tab 10, FSH - Progress Notes - Medical (23.01.21)
[77] Exhibit 1, Vol 1, Tab 5, Death in Hospital form - Fiona Stanley Hospital (23.01.21)
[78] Exhibit 1, Vol 1, Tab 10, FSH - Progress Notes - Medical (23.01.21)

CAUSE AND MANNER OF DEATH[79,80,81]

52. On 8 February 2021, two forensic pathologists (Dr Varaja and Dr Ong) conducted a post mortem examination of Mr Rice's body at the State Mortuary, and reviewed CT scans and medical notes. Dr Varaja and Dr Ong noted that Mr Rice's heart was enlarged and that he had hardening and thickening of the vessels suppyling his heart muscle (coronary artery atherosclerosis).

53. There was evidence of previous heart surgery (coronary artery bypass grafts), scarring of the kidneys, and surgery to the right leg (femoropopliteal bypass). A blood clot within the bypass graft was thought likely to have developed after Mr Rice's death. On 8 February 2021, Dr Varaja and Dr Ong expressed the opinion that Mr Rice's death was possibly due to natural causes, but noted that "*further investigations were pending*".

54. Toxicological analysis found a number of medications in Mr Rice's system that were consistent with his hospital care, namely apixaban, bisoprolol, lignocaine, metformin, nortriptyline, oxycodone, paracetamol, and tapentadol. Alcohol and other common drugs were not detected.[82]

55. A supplementary post mortem report was issued on 15 October 2021, noting that microscopic examination of tissues had shown severe scarring of the heart, and scarring in both lungs (emphysema) consistent with a long-term history of smoking. Bronchopneumonia was also identified in Mr Rice's right lung, and was possibly due to aspiration.

56. Dr Varaja and Dr Ong expressed the opinion that the cause of Mr Rice's death was acute bronchopneumonia in a man with comorbidities. I accept and adopt the conclusion of Dr Varaja and Dr Ong as to the cause of Mr Rice's death and further, I find that Mr Rice's death occurred by way of natural causes.

[79] Exhibit 1, Vol 1, Tab 6.2, Post Mortem Report (08.02.21)
[80] Exhibit 1, Vol 1, Tab 6.1, Supplementary Post Mortem Report (15.10.21)
[81] Exhibit 1, Vol 1, Tab 8, Neuropathology Report (02.03.21)
[82] Exhibit 1, Vol 1, Tab 7, ChemCentre Report (23.02.21)

QUALITY OF SUPERVISION, TREATMENT AND CARE

57. Mr Rice was appropriately entered into the terminally ill prisoner list in TOMS on 12 June 2021. However, because of staff vacancies at critical points, the possibility of Mr Rice's early release (pursuant to an exercise of the RPOM) was not considered when it should have been. Whilst it is very unlikely Mr Rice's early release would have been approved, this issue should still have been considered.

58. Since Mr Rice's death the staff position that generates briefing notes to the Minister about the early release of prisoners has been reinstated. In addition, arrangements are now in place to ensure that the terminally ill prisoner list on TOMS is closely monitored. The upshot is that the errors made in Mr Rice's case are unlikely to reoccur.

59. Following Mr Rice's death, Acacia conducted a review of the health services he was provided (Acacia Review). After exhaustively setting out Mr Rice's care between November 2016 to October 2020, the Acacia Review concluded:

> Mr Rice received a high level of care while in custody that was equal to or above what he would have received in the community as evidenced by the details in the medical record (ECHO). From the review of Mr Rice's medical notes, he was at Acacia for a long period of time, with a very complex medical history. Medical care that was provided to him, was provided in a timely manner. All care provided to Mr Rice during his incarceration was appropriate.[83]

60. The DOJ Review relevantly concluded that:

> Mr David Arthur Rice was an elderly and frail gentleman, who had multiple serious health conditions on his arrival into prison. Timely and regular reviews, including multiple comprehensive reviews of his complex health issues by nursing and medical staff, prompt action in acute situations, appropriate transfer for tertiary care and good access to allied health services and specialist care ensured that his care often times exceeded that which he might have received in the community.[84]

[83] Exhibit 1, Vol 1, Tab 18, Health Services Summary - Acacia Prison (29.08.22, received on 16.09.22), p149
[84] Exhibit 1, Vol 1, Tab 19, Health Services Summary - DOJ (23.09.22), p13 and ts 28.08.22 (Gunson), p11

61. After carefully considering the available evidence, I am satisfied that Mr Rice was appropriately managed and supervised whilst he was incarcerated. I am also satisfied that the treatment and care that Mr Rice received whilst he was in prison was reasonable, and may have exceeded the standards of care he would have received had he been in the general community.

MAG Jenkin
Coroner
5 October 2022