

**JURISDICTION** : CORONER'S COURT OF WESTERN AUSTRALIA  
**ACT** : CORONERS ACT 1996  
**CORONER** : PHILIP JOHN URQUHART, CORONER  
**HEARD** : 31 JANUARY 2023  
**DELIVERED** : 22 MAY 2023  
**FILE NO/S** : CORC 1551 of 2021  
**DECEASED** : BARTLETT-TORR, ERROL WARREN

---

*Catchwords:*

Nil

*Legislation:*

Nil

**Counsel Appearing:**

SGT A. BECKER assisted the coroner  
F. NEGUS (State Solicitor's Office) appearing on behalf of the Department of Justice

**Case(s) referred to in decision(s):**

Nil

*Coroners Act 1996*  
(Section 26(1))

## **RECORD OF INVESTIGATION INTO DEATH**

*I, Philip John Urquhart, Coroner, having investigated the death of **Errol Warren BARTLETT-TORR** with an inquest held at Perth Coroner’s Court, Central Law Courts, Court 85, 501 Hay Street, PERTH, on 31 January 2023, find that the identity of the deceased person was **Errol Warren BARTLETT-TORR** and that death occurred on 20 June 2021 at Bethesda Hospital, 25 Queenslea Drive, Claremont, from metastatic carcinoma of the prostate with complications (end-of-life palliative care) in the following circumstances:*

### **Table of Contents**

LIST OF ABBREVIATIONS.....	3
INTRODUCTION .....	4
MR BARTLETT-TORR .....	5
Circumstances of imprisonment .....	5
Prison history .....	6
OVERVIEW OF MR BARTLETT-TORR’S MEDICAL CONDITIONS AND TREATMENT IN PRISON .....	6
Admission to SJOGMH from 21 May – 12 June 2021.....	8
Mr Bartlett-Torr is classified at Stage 3 on the Department’s terminally ill register .....	9
EVENTS LEADING TO MR BARTLETT-TORR’S DEATH .....	10
CAUSE AND MANNER OF DEATH .....	11
ISSUES RAISED BY THE EVIDENCE .....	12
Non-disclosure of Mr Bartlett-Torr’s elevated PSA reading.....	12
High ferritin readings.....	15
Mr Bartlett-Torr’s transfer from SJOGMH to Casuarina .....	16
The restraining of Mr Bartlett-Torr from 17 June 2020 .....	17
QUALITY OF THE DEPARTMENT’S SUPERVISION, TREATMENT AND CARE.....	22
RECOMMENDATIONS .....	23
The contents of prisoner health summaries provided by doctors .....	23
Ensuring the non-use of restraints on terminally ill prisoners who have been admitted to hospital for palliative care .....	24
Recommendation .....	27
CONCLUSION.....	28

**LIST OF ABBREVIATIONS**

<b>Abbreviation</b>	<b>Meaning</b>
Acacia	Acacia Prison
Bethesda	Bethesda Hospital
BPH	Benign prostatic hypertrophy
the <i>Briginshaw</i> principle	the accepted standard of proof the Court is to apply when deciding if a matter has been proven on the balance of probabilities
BRS	Broadspectrum
Casuarina	Casuarina Prison
COPP	the Department's Commissioner's Operating Policy and Procedure
CRP	C-reactive protein
CT	computerised tomography
the Department	the Department of Justice
DIC	disseminated intravascular coagulation
EMRA	the Department's External Movement Risk Assessment form
GORD	gastro-oesophageal reflux
INR	international normalised ratio (used for monitoring blood clotting)
ITP	idiopathic thrombocytopenic purpura
the medical clinic	Sunset Skin Cancer and Medical Clinic
the Minister	Minister for Corrective Services
OMI	the Department's Offender Movement Information form
PMRA	the Department's Prisoner Movement Risk Assessment form
PSA	prostate-specific antigen
SJOGMH	St John of God Midland Public Hospital
Stage 1	the first of four stages cited in the Department's terminally ill prisoner register
Stage 3	the third stage cited in the Department's terminally ill prisoner register
Stage 4	the final stage cited in the Departments terminally ill prisoner register
TOMS	the Department's Total Offender Management Solution
ug/L	micrograms per litre

## INTRODUCTION

“Handcuffs weigh much more than headstones.” – Visar Zhiti, author

- 1 The deceased (Mr Bartlett-Torr) died on 20 June 2021 at Bethesda Hospital, Claremont, from metastatic carcinoma of the prostate with complications. At the time of his death, Mr Bartlett-Torr was a sentenced prisoner in the custody of the Chief Executive Officer of the Department of Justice (the Department).<sup>1</sup>
- 2 Accordingly, immediately before his death, Mr Bartlett-Torr was a “*person held in care*” within the meaning of the *Coroners Act 1996* (WA) and his death was a “*reportable death*”.<sup>2</sup> In such circumstances, a coronial inquest is mandatory.<sup>3</sup>
- 3 I held an inquest into Mr Bartlett-Torr’s death at Perth on 31 January 2023. The following witnesses gave oral evidence:
  - (i) Dr Catherine Gunson (Acting Director of Medical Services with the Department); and
  - (ii) Toni Palmer (Senior Review Officer with the Department)
- 4 The documentary evidence at the inquest comprised of one volume of the brief, which was tendered as exhibit 1. At the request of counsel assisting, Mr Bartlett-Torr’s general practitioner provided a letter to the Court after the inquest had concluded. This letter explained why the doctor did not include the results of a blood test that measured Mr Bartlett-Torr’s prostate-specific antigen (PSA) levels in the patient health summary that he had provided to the Department. That letter was incorporated into exhibit 1 at tab 19.3.
- 5 At the conclusion of the inquest, I sought a response from the Department regarding the removal of restraints for certain prisoners attending hospital for palliative care. I received the response in a letter dated 2 March 2023.
- 6 As I was preparing my finding, I sought additional information regarding the use of restraints on Mr Bartlett-Torr from the Department through its counsel, Ms Negus from the State Solicitor’s Office. I subsequently received further material and submissions from the Department on 17 March 2023, 30 March 2023, 14 April 2023, 21 April 2023 and 27 April 2023. I extend my gratitude to the Department and Ms Negus for these materials which have been of considerable assistance in the preparation of my finding.
- 7 The inquest focused on the medical care provided to Mr Bartlett-Torr during his time as a prisoner, with an emphasis on the care provided to him regarding his

---

<sup>1</sup> *Prisons Act 1981* (WA) s 16

<sup>2</sup> *Coroners Act 1996* (WA) s 3 and s 22(1)(a)

<sup>3</sup> *Coroners Act 1996* (WA) s 25(3)

prostate cancer. It also examined the use of restraints on Mr Bartlett-Torr during the final days of his life when he was transferred to hospital for palliative care.

- 8 In making my findings, I have applied the standard of proof as set out in *Briginshaw v Briginshaw* (1938) 60 CLR 336, 361-362 (Dixon J) which requires a consideration of the nature and gravity of the conduct when deciding whether a matter has been proven on the balance of probabilities.
- 9 I am also mindful not to assert hindsight bias into my assessment of the actions taken by Mr Bartlett-Torr's prison carers in their treatment of him. Hindsight bias is the tendency, after an event, to assume the event was more predictable or foreseeable than it actually was at the time.<sup>4</sup>

### **MR BARTLETT-TORR**<sup>5</sup>

- 10 Mr Bartlett-Torr was born on 6 October 1933 in East London, South Africa. In February 1962, he married his wife. Four months later, Mr Bartlett-Torr and his wife emigrated to Australia, arriving in Fremantle. They subsequently had four children together. Mr Bartlett-Torr remained in Western Australia and worked as a professional photographer before he retired. He was 87 years old and weighed 68 kg when he died.

### ***Circumstances of imprisonment***<sup>6</sup>

- 11 In July 2018, Mr Bartlett-Torr was arrested and charged with sexual offending against five children that had occurred between March 2000 and January 2018.
- 12 On 20 November 2019, Mr Bartlett-Torr pleaded guilty to seven counts of indecently dealing with a child under the age of 13 years, eight counts of indecently dealing with a child over the age of 13 year and under the age of 16 years, and one count of sexual penetration of a child over the age of 13 years and under the age of 16 years.
- 13 On 24 March 2020, the District Court of Western Australia, sitting in Geraldton, sentenced Mr Bartlett-Torr to a total of 5 years' imprisonment with eligibility for parole. The sentences were backdated to 16 March 2020, which meant that his earliest eligible date for parole was 15 March 2023.

---

<sup>4</sup> Dillon H and Hadley M, *The Australasian Coroner's Manual* (2015) 10

<sup>5</sup> Exhibit 1, Tab 2, Coronial Investigation Squad Report from Senior Constable Rebecca O'Keeffe dated 31 May 2022; Exhibit 1, Tab 8.2, Background Information from Maureen Bartlett-Torr dated 21 June 2021

<sup>6</sup> Exhibit 1, Tab 14, Transcript of Proceedings in the District Court sitting in Geraldton dated 24 March 2020

*Prison history*<sup>7</sup>

- 14 Mr Bartlett-Torr had the following prison placements and transfers with respect to the 15 months he was in prison:
- (i) Greenough Regional Prison: 16 March - 3 April 2020 (18 days)
  - (ii) Casuarina Prison: 3 April - 5 June 2020 (63 days)
  - (iii) Acacia Prison: 5 June 2020 - 12 June 2021 (372 days)
  - (iv) Casuarina Prison: 12 - 20 June 2021 (8 days)<sup>8</sup>
- 15 Mr Bartlett-Torr spent most of his imprisonment at Acacia Prison (Acacia). When at Casuarina Prison (Casuarina) in April 2020, he was given a minimum-security status due to, amongst other factors, his health issues and was recommended for a transfer to Acacia.
- 16 Mr Bartlett-Torr had a rapid deterioration in his health in 2021. However, when he was transferred to Acacia in June 2020, his health issues were not regarded as serious enough for him to receive infirmary treatment at Casuarina.<sup>9</sup> Instead, it was proposed he be placed in a unit at Acacia which provided assisted health care.
- 17 For the entirety of his imprisonment, Mr Bartlett-Torr was considered unsuitable for prison work duties due to his advanced age and health issues.
- 18 An examination of the Department's Total Offender Management Solution (TOMS) data for Mr Bartlett-Torr demonstrated he was a well-behaved prisoner who was not a management issue.

**OVERVIEW OF MR BARTLETT-TORR'S MEDICAL CONDITIONS AND TREATMENT IN PRISON**<sup>10</sup>

- 19 Mr Bartlett-Torr was already 86 years old when he commenced his term of imprisonment. His previous medical history had included a pacemaker insertion, atrial fibrillation, gastro-oesophageal reflux (GORD), hypertension, osteoarthritis, and blood clotting management. His medications when he began his imprisonment included warfarin (an anticoagulant for atrial fibrillation), pantoprazole (for GORD), naproxen (for arthritis), and irbesartan (for hypertension).
- 20 At his initial prison medical assessment, Mr Bartlett-Torr was noted to be “*very frail*” and unsteady on his feet. He said he was eating well, had no weight-loss and the only urinary symptom he reported was a long-standing poor urinary flow.

---

<sup>7</sup> Exhibit 1, Tab 15A, Death in Custody Report dated October 2022

<sup>8</sup> These eight days included the four days Mr Bartlett-Torr was a patient at Bethesda Hospital

<sup>9</sup> Casuarina is the only prison in Western Australia that has an infirmary

<sup>10</sup> Exhibit 1, Tab 16, Health Services Summary into the Death in Custody dated 17 November 2022; Exhibit 1, Tab 17, Report by Dr Cherelle Fitzclarence dated 28 November 2022

- 21 On 28 March 2020, prior to his transfer to Acacia Prison, Mr Bartlett-Torr was added to the terminally ill register on TOMS due to his age, frailty and cardiac disease. He was classified as Stage 1, which meant it was considered he could potentially die in custody.
- 22 For his first two months at Acacia Prison, Mr Bartlett-Torr was regularly seen by nurses and prison doctors for relatively minor medical issues and the monitoring of any blood clotting issues (by measuring his INR<sup>11</sup> levels).
- 23 On 24 June 2020, a prison doctor noted that Mr Bartlett-Torr had a higher ferritin reading from his most recent blood tests.<sup>12</sup> It was assumed that the high reading was possibly related to haemochromatosis (a genetic iron overload condition).
- 24 On 13 August 2020, Mr Bartlett-Torr was reviewed by a prison doctor for a chronic disease management plan. During that assessment it was noted that he had benign prostatic hypertrophy (BPH)<sup>13</sup> and it was recommended that Mr Bartlett-Torr be commenced on prazosin.<sup>14</sup> The prison doctor, however, omitted to prescribe this drug for Mr Bartlett-Torr. It was again noted that the high ferritin levels were likely due to haemochromatosis that was either from liver disease or genetic.
- 25 On 18 October 2020, Mr Bartlett-Torr stated to a nurse that he had some hesitancy of urine due to prostate problems and that he had not started the new medication to treat this. The prescription for prazosin was subsequently written by the prison doctor on 22 October 2020. One week later, Mr Bartlett-Torr reported to a nurse that his discomfort when trying to pass urine had ceased since taking the prazosin.
- 26 On 16 May 2021, Mr Bartlett-Torr had a nosebleed (epistaxis) which was treated by a nurse. When it continued for several hours, the on-call prison doctor advised that Mr Bartlett-Torr should be taken to a hospital emergency department. Attending ambulance officers treated Mr Bartlett-Torr within Acacia which ended the bleeding and they recommended he was able to remain in prison.
- 27 Although his nose bleeding had resolved, the following morning Mr Bartlett-Torr's INR level was very high (7.1). He also complained to the treating prison nurse that he had abdominal pains and dizziness. It was determined that Mr Bartlett-Torr needed to attend hospital and he was taken to Northam Hospital's emergency department. Mr Bartlett-Torr was given oral vitamin K to reverse the effect of the warfarin medication he had been taking and his INR level

---

<sup>11</sup> International normalised ratio (an INR range of between 2.0 and 3.0 is generally regarded as a therapeutic range for a person taking warfarin)

<sup>12</sup> Ferritin is a blood protein that contains iron

<sup>13</sup> An enlarged prostate

<sup>14</sup> This medication can be prescribed for a number of conditions, including the treatment of symptoms of an enlarged prostate.

was reduced to 5.1. He was discharged the same day with a recommendation to withhold warfarin for two days and then recommence at a lower dose.

- 28 Over the next two days, Mr Bartlett-Torr was closely monitored by a prison nurse. No bleeding was observed and his INR level on 18 May 2021 was 3.1.
- 29 On 20 May 2021, Mr Bartlett-Torr complained to a prison nurse of an appetite loss, generalised pain and weight loss. He denied any new urinary symptoms; however, he appeared very frail and unsteady. His abdomen was tender, and he had obvious bruising to his arms and legs. He required assistance to stand. Later that day, the prison nurse reviewed Mr Bartlett-Torr with the prison doctor, and it was considered that the abdominal pain was possibly due to a pancreas lesion, gastritis or a duodenal lesion. Urgent blood tests were arranged for the following morning.
- 30 At about 8.50 am on 21 May 2021, the prison doctor noted that Mr Bartlett-Torr was unwell. His abdominal pain was worse, and he had nausea, dizziness, a reduced urine output and low blood pressure. There was also a report that he had had a recent fall. A decision was made for Mr Bartlett-Torr to be taken to the emergency department at St John of God Midland Hospital (SJOGMH) for a diagnosis of the abdominal pain and a cardiac assessment.

*Admission to SJOGMH from 21 May – 12 June 2021*<sup>15</sup>

- 31 At SJOGMH, Mr Bartlett-Torr reported a five-day history of abdominal pain which was exacerbated by passing urine. He also said he had a poor urine stream. His platelet count was very low (thrombocytopenia) and his C-reactive protein (CRP) level and white cell count were high.
- 32 A CT scan of Mr Bartlett-Torr's abdomen and pelvis showed an enlarged prostate. An ultrasound showed a probable early cirrhosis of the liver and a high post void residual volume of urine. Further testing revealed that Mr Bartlett-Torr had a very high PSA level. His initial differential diagnoses were disseminated intravascular coagulation (DIC) secondary to prostate cancer or ITP (idiopathic thrombocytopenic purpura), an autoimmune condition.
- 33 Mr Bartlett-Torr was commenced on steroids to treat the possible auto immune condition and was given cryoprecipitate to treat his low platelet count.
- 34 On 31 May 2021, the medical team treating Mr Bartlett-Torr at SJOGMH discussed his case with a urologist at Royal Perth Hospital. The urologist expressed the view that Mr Bartlett-Torr most likely had prostate cancer, although

---

<sup>15</sup> St John of God Midland Hospital Medical Records



it was unlikely to be the cause of the low platelet count. A haematologist later attributed the low platelet count to DIC.

35 Whilst at SJOGMH, Mr Bartlett-Torr continued to experience abdominal and back pain and he was placed on fluid restrictions for his fluid overload and low sodium levels.

36 A rectal examination by a urologist confirmed that Mr Bartlett-Torr's prostate gland was irregular. However, the urologist thought Mr Bartlett-Torr was not well enough to undergo a biopsy and expressed a view that given the advanced stages of the prostate cancer, the biopsy was unlikely to change Mr Bartlett-Torr's management.

37 Goals of care were subsequently discussed with Mr Bartlett-Torr and he was referred to the medical oncology section at SJOGMH for management.

38 Mr Bartlett-Torr was commenced on a medication containing dutasteride and tamsulosin, which is used to manage symptoms of BPH, and degarelix, a treatment for advanced prostate cancer. His pain was managed with opioid medication and his other regular medications were ceased.

39 Mr Bartlett-Torr made a "*Do Not Resuscitate*" order on 4 June 2021.<sup>16</sup> Four days later, he was reviewed by the palliative care team at SJOGMH.

40 On 9 June 2021, Mr Bartlett-Torr's condition worsened when he developed a coagulopathy (an impaired blood clotting formation). He was prescribed tranexamic acid to reduce the risk of bleeding.

41 On 10 June 2021, Mr Bartlett-Torr's treating doctors held discussions with his wife and daughter regarding the poor prognosis.

42 On 11 June 2021, Mr Bartlett-Torr expressed a desire to die due to his poor quality of life. The following day, he stated a wish for palliative care only. As he was deemed by the Department's Health Services to be unfit for a return to Acacia, Mr Bartlett-Torr was discharged from SJOGMH on 12 June 2021 and transferred to Casuarina so that he could be treated at the infirmary.

***Mr Bartlett-Torr is classified at Stage 3 on the Department's terminally ill register***

43 On 3 June 2021, Mr Bartlett-Torr was classified at Stage 3 by the Department's Director of Medical Services on the Department's terminally ill register on TOMS.<sup>17</sup> This classification meant it was considered that the prisoner's death may either occur suddenly due to their medical conditions or within three months. The

---

<sup>16</sup> A medical order to withhold cardiopulmonary resuscitation techniques

<sup>17</sup> Exhibit 1, Tab 16, Health Services Summary into the Death in Custody dated 17 November 2022, p.34

reason given for Mr Bartlett-Torr's Stage 3 classification was his diagnosis of advanced prostate cancer.

44 One of the outcomes of this classification is that a prisoner who has been classified at Stage 3 or Stage 4<sup>18</sup> can be considered for release on compassionate grounds by the Governor of Western Australia before the expiration of the prisoner's term of imprisonment (i.e. the grant of a pardon in the exercise of the Royal Prerogative of Mercy).

45 Within seven working days of the notification of either of these classifications, the Department must prepare a briefing note for the Minister of Corrective Services (the Minister).<sup>19</sup>

46 On 11 June 2020, a briefing note was prepared after Mr Bartlett-Torr was classified at Stage 3. That briefing note recommended that he not be released early.<sup>20</sup> A decision was subsequently made by the Minister not to release Mr Bartlett-Torr from custody.<sup>21</sup>

#### **EVENTS LEADING TO MR BARTLETT-TORR'S DEATH**<sup>22</sup>

47 After his transfer to Casuarina, Mr Bartlett-Torr continued to have shortness of breath, chest pains, nausea, and diarrhea. He remained very frail and confirmed his previous view that he did not want any life prolonging measures.

48 Shortly after he was placed in the infirmary at Casuarina, Mr Bartlett-Torr received a palliative care assessment for placement at Bethesda Hospital (Bethesda).

49 On 17 June 2021, Mr Bartlett-Torr was admitted to Bethesda for palliative care.

50 On 18 June 2021, Mr Bartlett-Torr's wife (his next of kin) was contacted and informed of his admission to Bethesda. On the same day, Mr Bartlett-Torr's wife, with two other relatives, visited him.

51 On 20 June 2021, Mr Bartlett-Torr's status on the Department's terminally ill list was escalated to Stage 4 (i.e. death is imminent) due to his rapidly progressing cancer. On the same day a short time later, a clinical nurse at Bethesda pronounced that he had died at 1.14 pm.<sup>23</sup>

---

<sup>18</sup> A terminally ill prisoner is classified at Stage 4 if their death is imminent

<sup>19</sup> Policy Directive 8: Prisoners with a Terminal Medical Condition - Procedures

<sup>20</sup> Exhibit 1, Tab 15A, Review of Death in Custody dated October 2022, p.5

<sup>21</sup> Exhibit 1, Tab 15.15, Email from the Prisoners Review Board Delegate of Sentence Management dated 6 October 2022

<sup>22</sup> Exhibit 1, Tab 15A, Review of Death in Custody dated October 2022

<sup>23</sup> Exhibit 1, Tab 4, Death in Hospital (Bethesda Health Care) dated 20 June 2021

**CAUSE AND MANNER OF DEATH**<sup>24</sup>

- 52 On 29 June 2021, forensic pathologists, Dr Nina Vagaja and Dr Kirralee Patton, conducted a post mortem examination of Mr Bartlett-Torr's body. The two forensic pathologists also reviewed the medical notes from SJOGMH and Bethesda.
- 53 The post mortem examination found small bilateral subdural haemorrhages on Mr Bartlett-Torr's brain. A pacemaker was present in his left chest wall with wires extending into the right side of the heart. One of the arteries supplying the heart was severely narrowed and calcified (coronary artery atherosclerosis). Both of Mr Bartlett-Torr's lungs were fluid-laden and congested, a finding that can be seen with heart disease. The surface of both lungs showed multiple small nodules and the lymph nodes associated with the lungs were enlarged. The prostate showed a malignant nodular area.
- 54 Tissues from Mr Bartlett-Torr's major body organs were microscopically examined. This examination confirmed the presence of widespread coronary artery atherosclerosis. The presence of a widespread metastatic carcinoma<sup>25</sup> of the prostate was also confirmed in the lungs, which had infiltrated the lung tissue of all five lobes. The lymph nodes within Mr Bartlett-Torr's chest also contained an abundant spread of the prostate cancer. The presence of metastatic carcinoma was also confirmed in Mr Bartlett-Torr's liver. Changes of long-standing arterial hypertension were evident in the kidneys. Bone marrow had largely been replaced by metastatic infiltration of the prostate cancer.
- 55 A specialist neuropathologist examined Mr Bartlett-Torr's brain which confirmed the presence of subdural haematomas. It was noted that with the presence of coagulopathy, which was predominantly due to bone marrow failure secondary to cancer, Mr Bartlett-Torr was at risk of developing intracranial haemorrhage, even with a clinically trivial injury. The forensic pathologists concluded that in the absence of a reported fall with a head injury, the subdural haematomas were considered a complication of coagulopathy.
- 56 It was readily apparent to the forensic pathologists that Mr Bartlett-Torr had died due to the widespread metastatic carcinoma of his prostate.
- 57 Toxicological analysis of the post mortem blood samples taken from Mr Bartlett-Torr confirmed the presence of a number of medications consistent with his palliative care.

---

<sup>24</sup> Exhibit 1, Tabs 6.1-6.3, Supplementary Post Mortem Report, Post Mortem Report, Interim Post Mortem Report; Exhibit 1, Tabs 7.1 and 7.2, Final Toxicology Report dated 28 July 2021, Interim Toxicology Report dated 1 July 2021

<sup>25</sup> Cancer that spreads to other parts of the body from its original location

- 58 At the conclusion of the post mortem examination, and after reviewing the results of the other examinations, the forensic pathologists expressed the opinion that the cause of Mr Bartlett-Torr's death was metastatic carcinoma of the prostate with complications (end-of-life palliative care).
- 59 I accept and adopt the opinion expressed by Dr Vagaja and Dr Patton and I find that Mr Bartlett-Torr's death occurred by way of natural causes.

### ISSUES RAISED BY THE EVIDENCE

#### *Non-disclosure of Mr Bartlett-Torr's elevated PSA reading*

- 60 Shortly after a person is imprisoned, the Department's Health Services will ask the prisoner if they consent to their medical information being released. Mr Bartlett-Torr consented and signed the relevant form which read:<sup>26</sup>

I, Errol Warren Bartlett-Torr, hereby authorise any doctor and/or clinical psychologist or any person who has treated me whom I have consulted, to forward my medical history to the Director of Health Services in order to assist the medical staff in my future medical management.

Other relevant details: Medical Summary

- 61 This form was sent to Sunset Skin Cancer and Medical Clinic (the medical clinic), where Mr Bartlett-Torr's doctor was based.
- 62 On 17 March 2020, a patient health summary from the medical clinic was forwarded via facsimile transmission to Greenough Regional Prison (where Mr Bartlett-Torr was incarcerated at the time).<sup>27</sup> That summary listed Mr Bartlett-Torr's current medications, immunisations and active past history. His active past history was listed as atrial fibrillation (20 June 2013), hypertension (20 June 2013), GORD (20 June 2013), and INR management (16 May 2019).
- 63 Unfortunately, what the patient health summary did not disclose were the results of a blood test requested by Mr Bartlett-Torr's doctor to measure his PSA level. This testing took place in January 2020, less than two months before Mr Bartlett-Torr commenced his term of imprisonment.
- 64 Mr Bartlett-Torr had a PSA of 27 ug/L. This number appeared in red font on the pathology result form with the uppercase letter "H" next to it – also in red. The explanation for this colour coding was obvious as the document also specified:<sup>28</sup>

---

<sup>26</sup> Exhibit 1, Tab 18.1, Request for Medical Records dated 16 March 2020

<sup>27</sup> Exhibit 1, Tab 18.2, Patient Health Summary dated 17 March 2020

<sup>28</sup> Exhibit 1, Tab 18.2, Pathology Results for Mr Bartlett-Torr dated 23 January 2020

Total PSA levels >22 to 40 ug/L are usually not due to benign prostatic hyperplasia. Causes such as urinary tract infection, prostatitis and prostatic neoplasia<sup>29</sup> should be considered. Urological follow-up is recommended.

- 65 By a letter to the Court, Mr Bartlett-Torr's doctor advised that the PSA results were reported to him on 23 January 2020. The doctor then explained:<sup>30</sup>

On the same day we sent out an electronic reminder to his [Mr Bartlett-Torr's] mobile phone to make an appointment for this. During this time Mr Bartlett-Torr was under a lot of pressure, already expecting the likelihood of a jail sentence. During the last few weeks before going into custody, Mr Bartlett-Torr was very proactive in making sure his wife would be cared for in his absence, having always been his wife's primary carer. I have seen Mr Bartlett-Torr briefly as a double booking on the Friday 14 February 2020 complaining of arthritis in his hands, for which I referred him for an x-ray of the hands. The results of this I discussed on the 20 February 2020.

The next time I saw Mr Bartlett-Torr was on the 9 March 2020, days before going into custody. On this date I had mentioned his results of a raised PSA. After this date I had no more visits regarding his results or follow up on his prostate to organise further investigations. Mr Bartlett-Torr had one more visit with me on the 12 March 2020. For whatever reason, he thought it more important to have his driver's licence renewed before going into custody.

- 66 When the Court sought an explanation from Mr Bartlett-Torr's doctor as to why the results of the PSA blood test were not included in the patient health summary that was provided to the Department, the doctor responded:<sup>31</sup>

A request was made on the 16/03/2020 by a correctional services clinical nurse for a medical summary. This specified request for a "medical summary" is a form we provide that includes a patient's basic but necessary information. Most commonly this includes; a patient's personal identifying particulars, immunisation history, allergies, current medication, and active medical history provided as its diagnosis in dot points.

Extra information such as blood tests, reports, correspondence, and appointment notes are not provided to outside parties unless specifically requested by a medical professional (or their facility), a request for full medical records was made, or by written consent of the patient to another party.

This is why Mr Bartlett-Torr's PSA blood results were not included in this request.

- 67 The exclusion of the PSA blood result on the patient health summary provided by Mr Bartlett-Torr's doctor was compounded by the failure of Mr Bartlett-Torr to advise the prison nurse of his high PSA result at his first prison medical

---

<sup>29</sup> i.e. prostate cancer

<sup>30</sup> Exhibit 1, Tab 19.1, Letter from Dr Gerhard Beukes dated 27 January 2023

<sup>31</sup> Exhibit 1, Tab 19.3, Letter from Dr Gerhard Beukes dated 30 January 2023

assessment on 16 March 2020.<sup>32</sup> In fact, Mr Bartlett-Torr never raised the PSA result with any of his prison health service providers.

68 At the inquest, Dr Catherine Gunson, the Department's Acting Medical Director of Medical Services, answered this question from counsel assisting:<sup>33</sup>

But according to any of the admission assessments that Mr Bartlett-Torr had, he never mentioned that he had a raised PSA level or that he had a recent test, did he? --- No, he, according to the notes, he did not. He did disclose at his doctor admission assessment, which was a few weeks after he arrived, that he had some urinary tract - lower urinary tract symptoms that he had had for years and that he had had a prostate examination five years previously that was normal. And by examination, I think he would have meant a digital rectal examination of the prostate rather than a blood test.

69 When asked whether she would have expected the PSA test results to be in the patient health summary provided by Mr Bartlett-Torr's doctor, Dr Gunson answered:<sup>34</sup>

I think because it was an abnormal, very recent result and they've known about it within two months of him coming to prison, and therefore something was still being addressed had he remained in freedom, I would've expected it to be there on his summary. At least even a notation saying abnormal prostate under investigation or, you know, abnormal PSA result under investigation.

70 As Dr Gunson commented, "*a level as high at 27 would be strongly suggestive of cancer until proven otherwise unless he did have an acute infection at the time which ... [Mr Bartlett-Torr's] doctor would have remarked upon and then retested subsequently*".<sup>35</sup>

71 Dr Gunson explained that had the Department's Health Services been aware of the high PSA level then the blood test would have been repeated and, "*quite possibly requested an ultrasound to assess the situation further, and with those results refer to urology as the pathology report even advises to do*".<sup>36</sup>

72 It was very unfortunate that Mr Bartlett-Torr's doctor did not disclose the high PSA reading that his patient had from a blood test taken less than two months before he was imprisoned. I am of the view it fell within the description "*Active Past History*" that appears as a heading in the patient health summary that was provided. I am also of the view that it was obviously part of Mr Bartlett-Torr's "*medical history*" that would "*assist the medical staff in my future medical*

---

<sup>32</sup> ts 31.1.23 (Dr Gunson) p.8

<sup>33</sup> ts 31.1.23 (Dr Gunson) p.8

<sup>34</sup> ts 31.1.23 (Dr Gunson), p.7

<sup>35</sup> ts 31.1.23 (Dr Gunson), p.6

<sup>36</sup> ts 31.1.23 (Dr Gunson), p.9

*management*".<sup>37</sup> Additionally, and to use the doctor's own words, it was his "patient's basic but necessary information".<sup>38</sup>

- 73 It should not have been incumbent upon Mr Bartlett-Torr to raise the PSA results with the Department's Health Services. As is readily apparent from the doctor's own account in the passage quoted above from his letter, Mr Bartlett-Torr's thinking processes were dramatically impaired by the prospect he was about to be sentenced to a term of imprisonment for, it would appear, the first time in his life.

### ***High ferritin readings***

- 74 As I have already noted, Mr Bartlett-Torr had a higher ferritin reading from a blood test taken in June 2020. At the time, the prison doctor assumed the high reading was possibly due to haemochromatosis.
- 75 Although high ferritin levels can be caused by a number of conditions (including haemochromatosis), it can also be caused by prostate cancer.<sup>39</sup> As Dr Cherelle Fitzclarence, a senior medical officer with the West Australian Health Service, noted in her report that examined Mr Bartlett-Torr's medical management in prison:<sup>40</sup>

The Acacia prison doctor noted that Mr Bartlett-Torr had a high ferritin [level]. This was assumed to be related to maybe haemochromatosis. And indeed the most common cause of a raised ferritin is either an inflammatory state, a disorder of iron metabolism or other liver disfunction. Cancer is another cause of such a finding. In retrospect, it would have been good if a liver ultrasound had been requested when this was initially noted.

- 76 I agree with this observation by Dr Fitzclarence. Although it would have been appropriate for a liver ultrasound to have been undertaken, that observation is made with the benefit of hindsight. As the prison doctor was not aware of Mr Bartlett-Torr's high PSA level and would have known from Health Services records that (i) Mr Bartlett-Torr had previously indicated he only had longstanding lower urinary tract symptoms and (ii) a prostate examination five years previously that was normal,<sup>41</sup> I can understand why the prison doctor only decided to prescribe prazosin to treat Mr Bartlett-Torr's elevated ferritin levels. To now be critical of the prison doctor would be to insert impermissible hindsight bias.

---

<sup>37</sup> Exhibit 1, Tab 18.1, Request for Medical Records dated 16 March 2020

<sup>38</sup> Exhibit 1, Tab 19.3, Letter from Dr Gerhard Beukes dated 30 January 2023

<sup>39</sup> ts 31.1.23 (Dr Gunson), p.10

<sup>40</sup> Exhibit 1, Tab 17, Report of Dr Cherelle Fitzclarence dated 28 November 2022, p.4

<sup>41</sup> ts 31.1.23 (Dr Gunson), p.8

*Mr Bartlett-Torr's transfer from SJOGMH to Casuarina*

77 By 12 June 2021, Mr Bartlett-Torr's prognosis was not only extremely poor, but he had expressed a desire to have palliative care only. Despite those circumstances, he was discharged from SJOGMH back to prison. Although he was taken to the infirmary at Casuarina, it is "*nowhere near as comfortable as a hospital ... or a place set up to deliver palliative care*".<sup>42</sup> It was another five days before he was transferred from Casuarina to Bethesda for palliative care.

78 Mr Bartlett-Torr's family have expressed the view that he ought not have been taken back to prison from SJOGMH, but instead he should have been placed into palliative hospital care. I agree with those sentiments, as did Dr Gunson at the inquest when she said: "*I do feel that in that situation with his diagnosis, it would have been kinder for him and everyone else if he had been transferred straight from hospital to palliative care*".<sup>43</sup>

79 Dr Gunson surmised that the reason for the discharge back to Casuarina was because of a misconceived belief held by hospitals that there are more medical facilities at the infirmary than there actually are, and that it is more like a "*miniature hospital*".<sup>44</sup>

80 At the time of the inquest, the Department's Health Services was considering the introduction of a one-page document that would accompany every prisoner who attends a hospital. This document would outline the limited services that could be provided to the prisoner if they are returned to the infirmary at Casuarina. The aim is to prevent discharges that are being made earlier compared to the discharge of patients who would be returning home.<sup>45</sup> As Dr Gunson explained:

They [the hospitals] may not recognise that we still lock people down at 6.00 pm and we can do observations in the middle of the night, but it does involve ... a procedure where they have to be unlocked and there's custodial staff. It's not as straightforward as being able to immediately rush over and attend to somebody with things changing rapidly.

81 I commend the Department for its initiative to develop a document to accompany prisoners attending hospitals. This is the second inquest that I have recently presided over where a seriously unwell elderly prisoner has been discharged from hospital back to prison, only to be taken from the prison to Bethesda Hospital for palliative care a short time later.<sup>46</sup> I would suggest that, in appropriate cases, a paragraph is included in the document making it clear that palliative medical care is currently not available at any prison in Western Australia, apart from the

---

<sup>42</sup> ts 31.1.23 (Dr Gunson), p.22

<sup>43</sup> ts 31.1.23 (Dr Gunson), p.21

<sup>44</sup> ts 31.1.23 (Dr Gunson), p.21

<sup>45</sup> ts 31.1.23 (Dr Gunson), p.21

<sup>46</sup> Inquest into the death of *Colin Albert Winter* [2023] WACOR 2 delivered on 11 January 2023



infirmary at Casuarina. However, the facilities to provide palliative care at the Casuarina infirmary are not ideal.

***The restraining of Mr Bartlett-Torr from 17 June 2020***

- 82 The guarding of Mr Bartlett-Torr during his transfer by ambulance from Casuarina to Bethesda on 17 June 2021 was the responsibility of prison officers from Casuarina. At 2.55 pm on that day, escorting prison officers from Casuarina transferred the responsibility of guarding Mr Bartlett-Torr at Bethesda to officers from the private contractor, Broadspectrum (BRS).<sup>47</sup> This is known as a hospital sit.
- 83 The relevant contract held by BRS at the time of Mr Bartlett-Torr's death was, "*to provide 24-hour centralised oversight of all movements of persons in custody for outer metropolitan courts, all major regional courts, and custodial transport throughout Western Australia*".<sup>48</sup> BRS is commonly contracted to conduct hospital sits for the Department.
- 84 In his transfer from Casuarina to Bethesda, Mr Bartlett-Torr was to be restrained by handcuffs and leg restraints. This was specified in Casuarina's Offender Movement Information Form (OMI) for Mr Bartlett-Torr.<sup>49</sup> An OMI is the superintendent's order to conduct an escort of a prisoner and is usually prepared by the prison's movements officer.<sup>50</sup>
- 85 Upon handover to BRS at Bethesda, a risk assessment undertaken by BRS officers determined that there were to be, "*nil restraints to lower limbs as per medical certificate*" and with restraints applied to, "*hands, 3 points with escort chain*".<sup>51</sup> The medical certificate referred to was completed by Dr Gunson on 16 June 2021. It stated: "*During transport - for 1 shackle only to the wrist (not considered a flight risk as patient is unable to walk without assistance)*".<sup>52</sup>
- 86 This meant that Mr Bartlett-Torr began his time in bed at Bethesda restrained in the following manner: "*Handcuffs to both the left and right wrists (connected by a long escort chain), with an escort chain coming from each side of the handcuff to both sides of the bed. That is, it did not involve leg restraints*".<sup>53</sup> That is how Mr Bartlett-Torr's wife and his relatives would have seen him when they visited in the afternoon of 18 June 2021, and again in the afternoon of 19 June 2021.

---

<sup>47</sup> Exhibit 1, Tab 15A, Review of Death in Custody dated October 2022, p.12

<sup>48</sup> <https://www.ventia.com/page/west-australia>, p.1

<sup>49</sup> Casuarina Prison Offender Movement Information dated 17 June 2021, p. 2

<sup>50</sup> Department's Escort Procedures – Adult Custodial, p.5 (current version)

<sup>51</sup> BRS Restraints Risk Assessment dated 17 June 2021, p. 2

<sup>52</sup> Health Services Medical Certificate dated 16 June 2021

<sup>53</sup> Letter from David Hughes, Director Operational Policy, Compliance and Contracts dated 21 April 2023, attachment 1 at p. 2

- 87 At 10.16 am on 20 June 2021, one of Mr Bartlett-Torr’s treating doctors at Bethesda provided BRS officers with a written request for his restraints to be removed.<sup>54</sup> At 11.04 am, just over two hours before he died, Mr Bartlett-Torr was freed from any restraints.<sup>55</sup>
- 88 The Department has a number of policies and procedures that govern the use of restraints when prisoners are transferred to hospitals for treatment.<sup>56</sup> BRS also has its own procedures which largely mirror the Department’s.<sup>57</sup> Quite properly, the stated principles in the Department’s documents stress the importance that the transport of persons in custody is conducted in a safe and humane manner, taking into account the dignity of the person being transported.<sup>58</sup>
- 89 I raised during the inquest that Mr Bartlett-Torr was clearly very elderly, frail and in extremely poor health in the days before his death. He was also a compliant prisoner with a minimum-security rating. In those circumstances I questioned whether he had to be restrained in Bethesda in the manner and for the length of time that he was. I expressed the view that from all the evidence before me, it was simply not necessary for Mr Bartlett-Torr to be restrained at all once he left Casuarina on 17 June 2021.
- 90 After carefully considering the written submissions and additional material provided to me by the Department after the inquest had concluded, I have found that the Department had failed to comply with its own policies and procedures regarding the use of restraints in its treatment of Mr Bartlett-Torr. For the reasons outlined below, I have found that had the Department complied with its policies and procedures, Mr Bartlett-Torr would not have been restrained at all once the decision had been made to transfer him from Casuarina to Bethesda.
- 91 The applicable Commissioner’s Operating Policy and Procedure (COPP) 12.3 Conducting Escorts as of June 2021 was version 2.0.<sup>59</sup> It states that an escort of prisoners includes from prison to hospital.<sup>60</sup>
- 92 The use of handcuffs and leg restraints on Mr Bartlett-Torr as specified in the OMI dated 17 June 2021 followed the general requirements for the restraining of prisoners during a transfer as set out in Appendix C of COPP 12.3 Conducting Escorts (Appendix C).<sup>61</sup> The use of “*handcuffs*” and “*security chain link*” in the

---

<sup>54</sup> Exhibit 1, Tab 12, Letter from Dr A Krishnan, Palliative Care Unit, Bethesda Hospital dated 20 June 2021

<sup>55</sup> Exhibit 1, Tab 15A, Review of Death in Custody dated October 2022, p.13

<sup>56</sup> COPP 11.3 Use of Force and Restraints, COPP 12.2 Coordination of Escorts, COPP 12.3 Conducting Escorts

<sup>57</sup> Exhibit 1, Tab 20.1-20.5, Broadpectrum Restraints dated 29 April 2021, Standard Operating Procedure - Hospital Sits dated 15 November 2021

<sup>58</sup> COPP 12.3 Conducting Escorts, p. 1

<sup>59</sup> Unless otherwise specified, any citing of COPP 12.3 Conducting Escorts is a reference to version 2.0

<sup>60</sup> COPP 12.3 Conducting Escorts, p. 4

<sup>61</sup> Letter from David Hughes, Director Operational Policy, Compliance and Contracts dated 21 April 2023, attachment 1, p. 1

Department's Hospital Admittance Advice dated 17 June 2021 for Mr Bartlett-Torr also followed the general requirements for the restraining of prisoners in hospital as set out in Appendix C.<sup>62</sup>

- 93 However, Mr Bartlett-Torr did not fall within the general cohort of prisoners requiring restraints during an escort. Section 5.2 of COPP 12.3 Conducting Escorts is titled "*Reasons prohibiting the use of restraints*". Section 5.2.1 states:<sup>63</sup>

Prisoners with significant medical and/or mobility issues shall not be placed in restraints unless there is a requirement following the completion of a risk assessment by prison staff and approval by the Superintendent/OIC. Particular consideration shall be given, but not limited, to the following cohorts:

- a) prisoners who are not conscious
- b) prisoners who are terminally ill
- c) prisoners who are elderly and frail
- d) prisoners with significant mobility issues
- e) prisoners with significant injuries whereby handcuffs/ankle-cuffs or hobbles cannot be used

Section 5.2.2 states:<sup>64</sup>

Where relevant, risk assessments shall be conducted in consultation with medical staff.

- 94 I find that Mr Bartlett-Torr, as of 17 June 2021, clearly fell within section 5.2.1 b), c) and d). The Department properly conceded this point:<sup>65</sup>

The Department acknowledges that Mr Bartlett-Torr satisfied section 5.2.1 of COPP 12.3 and should therefore have not been placed in restraints either during his transfer or subsequent stay in hospital unless a risk assessment determined otherwise.

- 95 Accordingly, in order for it to be justified that Mr Bartlett-Torr be restrained in any manner, there had to have been a risk assessment stating that restraints were required and that the superintendent (or OIC) at Casuarina had approved the use of those restraints. The superintendent (or OIC) was the person responsible for ensuring a risk assessment was completed prior to Mr Bartlett-Torr's escort.<sup>66</sup>

---

<sup>62</sup> Letter from David Hughes, Director Operational Policy, Compliance and Contracts dated 21 April 2023, attachment 1, p. 1

<sup>63</sup> COPP 12.3 Conducting Escorts, p. 7

<sup>64</sup> COPP 12.3 Conducting Escorts, p. 7

<sup>65</sup> Letter from David Hughes, Director Operational Policy, Compliance and Contracts dated 21 April 2023, attachment 1, p. 3

<sup>66</sup> COPP 12.2 Coordination of Escorts (version 1.0), p.6

96 However, when I asked for a copy of that risk assessment, the Department provided the following answers:<sup>67</sup>

The Department has been unable to locate any paper risk assessment completed by the Department in respect of Mr Bartlett-Torr's transfer to Bethesda Hospital on 17 June 2021 or prior to his handover to Broadspectrum.

...

The Department acknowledges that a risk assessment ought to have been completed in accordance with COPP 12.3 section 5.2.1 in respect of the transfer to Bethesda, and that the Department has been unable to locate a copy of such a risk assessment.

97 In light of those concessions from the Department, I am satisfied that no risk assessment was completed.

98 For some inexplicable reason that has not been explained by the Department, Mr Bartlett-Torr was not escorted in accordance with section 5.2.1 of COPP 12.3 Conducting Escorts i.e. without being placed in restraints. I am also satisfied that if a risk assessment had been undertaken then it would have inevitably found that there was no requirement for any restraints, given Mr Bartlett-Torr's advanced age, frailty, immobility and his fatal illnesses.

99 Such a risk assessment would have to have been conducted in consultation with medical staff.<sup>68</sup> Unsurprisingly, Dr Gunson gave evidence at the inquest that had the health service providers at Casuarina been consulted, "*we would have said he does not need restraints*".<sup>69</sup>

100 Appropriately, the Department has made the following concession, "*... advice from Casuarina Prison is that, if all available information was properly considered at the time, Casuarina's risk assessment would have determined that restraints were not required*".<sup>70</sup>

101 As I have found that Mr Bartlett-Torr ought not have been restrained, the question arises as to whether BRS officers were at fault in maintaining the restraints on Mr Bartlett-Torr once he was in their care. That requires an analysis of what information BRS had and what its officers did.

102 Following their risk assessment on 17 June 2021, BRS officers undertook further risk assessments on 18 June 2021, 19 June 2021 and 20 June 2021.<sup>71</sup> I am satisfied

---

<sup>67</sup> Letter from David Hughes, Director Operational Policy, Compliance and Contracts dated 21 April 2023, attachment 1, pp. 3-4

<sup>68</sup> COPP 12.3 Conducting Escorts, section 5.2.2

<sup>69</sup> ts 31.1.23 (Dr Gunson), p. 23

<sup>70</sup> Letter from David Hughes, Director Operational Policy, Compliance and Contracts dated 27 April 2023, attachment 1, p. 1

<sup>71</sup> Letter from David Hughes, Director Operational Policy, Compliance and Contracts dated 21 April 2023, attachment 1, p. 4

there were two variations to Mr Bartlett-Torr's restraints which were carried out at 6.00 pm on 18 June 2021 and at 6.00 am on 20 June 2021.<sup>72</sup> Although there are no notations of what these variations were, I am satisfied there was one remaining restraint after 6.00 am on 20 June 2021. This would have been the handcuffing of Mr Bartlett-Torr's left wrist to the bed. I am able to draw that conclusion because the request on 20 June 2021 from the doctor at Bethesda for the restraints to be removed only referred to the restraint on Mr Bartlett-Torr's left wrist.<sup>73</sup>

103 The two variations to the restraints on 18 and 20 June 2021 appeared to have done pursuant to section 5.4.1 of COPP 12.3 Conducting Escorts which allows escorting officers to "*modify the use of restraints in accordance with the Superintendent's approval, Appendix C: Points of Restraint and the Department's Use of Restraints During an Escort training manual*".<sup>74</sup>

104 The removal of the remaining restraint on 20 June 2021 was pursuant to section 6.2.3 of COPP 12.3 Conducting Escorts which permits escorting officers to remove restraints from a prisoner if during the escort:<sup>75</sup>

- a) a medical officer requests the removal of the restraints when conducting a consultation, examination or treatment, subject to the directions of the Superintendent
- b) their removal does not breach or jeopardise the security of the escort

105 I am not critical of the decision by BRS officers to keep Mr Bartlett-Torr restrained in the manner that he was after he was first placed into their care. I find that the BRS officers on duty at the handover on 17 June 2021 would have been influenced by the fact that Mr Bartlett-Torr was already restrained by handcuffs and leg shackles. These officers would have assumed that a risk assessment conducted by Casuarina (and accepted by the Casuarina Superintendent/OIC) determined that Mr Bartlett-Torr was to be restrained in that manner.

106 I also note that BRS officers may not have been aware that Mr Bartlett-Torr was attending Bethesda for palliative care. I have been unable to find any reference in the escort documentation provided to me that would have alerted BRS to this fact. Indeed, the information contained in Casuarina's Medical Appointment Form dated 17 June 2021 under the heading "*Reason for Absence*" indicated that Mr Bartlett-Torr would be returning to Casuarina after his treatment at Bethesda: "*The offender shall remain at PRIVATE HOSPITAL BETHESDA HOSPITAL 25*

---

<sup>72</sup> Exhibit 1, Tab 15.16, PIC Record of Events at 275153 and 275165

<sup>73</sup> Exhibit 1, Tab 12, Letter from Dr A Krishnan, Palliative Care Unit, Bethesda Hospital dated 20 June 2021

<sup>74</sup> COPP 12.3 Conducting Escorts, p. 7

<sup>75</sup> COPP 12.3 Conducting Escorts, p. 9

*Queenslea Dr, Claremont WA 6010 until treatment is complete, thereupon the offender shall be returned to CASUARINA PRISON*".<sup>76</sup> (uppercase in the original)

107 Accordingly, although I have found the continued restraining of Mr Bartlett-Torr in Bethesda was inappropriate and unnecessary, I do not find that the officers from BRS were at fault for that occurring. Those officers should not be criticised for assuming that a risk assessment had been done by the Department which found that the use of restraints were required.

108 The Department was invited to respond to a potential finding that the continued restraining of Mr Bartlett-Torr at Bethesda was due to the Department's decision to restrain Mr Bartlett-Torr in a manner that was generally required for prisoners being escorted to a hospital. Part of the Department's response included the following:<sup>77</sup>

As stated above, it is difficult to speculate on what the outcome of a reviewed risk assessment would have been at the time of Mr Bartlett-Torr's admission to hospital. Assuming the risk assessment would have determined that no restraints be used during the transfer, it is then also difficult to speculate on how this would have impacted Broadspectrum's risk assessment and decision about restraints, particularly in the absence of any evidence from Broadspectrum's escorting officers.

109 I do not accept this submission. Had Mr Bartlett-Torr been unrestrained at the handover to BRS (as he should have been), there is no need to speculate on how this would have impacted the BRS officers' subsequent risk assessment and decision about restraints. Mr Bartlett-Torr was an 87-year-old prisoner who was documented as being "*very frail*"<sup>78</sup> and "*not considered a flight risk*" as he "*was unable to walk without assistance*".<sup>79</sup> In those circumstances, I am satisfied that the only reasonable inference open is that had Mr Bartlett-Torr been handed over to BRS officers with no restraints, those officers would have concluded that any prospect of him breaching the security of two BRS officers if he was to remain unrestrained was negligible.

110 I am also satisfied I can reach that conclusion without hearing evidence from the relevant officers at BRS.

### **QUALITY OF THE DEPARTMENT'S SUPERVISION, TREATMENT AND CARE**

111 Having considered the documents tendered into evidence, and the evidence of Dr Gunson at the inquest, I am satisfied that Mr Bartlett-Torr's various chronic

---

<sup>76</sup> Casuarina Prison Medical Appointment Form dated 17 June 2021, p. 1

<sup>77</sup> Letter from David Hughes, Director Operational Policy, Compliance and Contracts dated 27 April 2023, attachment 1, p. 2

<sup>78</sup> Casuarina's Offender Movement Information dated 17 June 2021, p. 1

<sup>79</sup> Health Services Medical Certificate dated 16 June 2021

and progressive medical conditions, including his prostate cancer, were appropriately managed by the Department. Although there were some missed opportunities that I have outlined above, I am satisfied that the standard of medical supervision, treatment and care Mr Bartlett-Torr received whilst he was in custody was appropriate.

112 Accordingly, I agree with the assessment by Dr Fitzclarence that: “*Overall, I think the prison health services, both in the government prisons and in the private facilities are to be commended for the care of this gentleman*”.<sup>80</sup>

113 However, applying the *Briginshaw* principle and having carefully considered the relevant material and the Department’s submissions, I am satisfied that the use of restraints upon Mr Bartlett-Torr during his transfer to, and admission at, Bethesda from 17 to 20 June 2021 was entirely inappropriate and failed to comply with the Department’s own policies and procedures. Because of the Department’s error in having Mr Bartlett-Torr held in handcuffs and leg restraints when he was handed over into the care of BRS, I have found that the Department was also responsible for the continued use of restraints after he had been admitted to Bethesda.

## RECOMMENDATIONS

### *The contents of prisoner health summaries provided by doctors*

114 As I have noted above, it was of some concern that Mr Bartlett-Torr’s raised PSA level was not brought to the attention of the Department’s Health Services. In light of Dr Gunson’s evidence regarding the Department’s efforts to make improvements in this area, I have determined that it would not be necessary to make any recommendations that address the failing of general practitioners to record all relevant information on their patient’s health summary that is provided to the Department’s Health Services.

115 Dr Gunson’s evidence at the inquest was that the Department’s Health Services were presently having meetings to redesign the request for release of medical information from a prisoner’s general practitioner so that the Department gets, “*a more comprehensive amount of information back that is also not an information dump or not too much so that the real problems are obscured*”. The redesign contemplates adding a box to tick for “*recent investigations, imaging, ECGs and other pathology*”.<sup>81</sup> Dr Gunson agreed that in those circumstances it would not be necessary for the Court to make recommendations that aim to reduce

---

<sup>80</sup> Exhibit 1, Tab 17, Report of Dr Cherelle Fitzclarence dated 28 November 2022, p.5

<sup>81</sup> ts 31.1.23 (Dr Gunson), p.10

the prospect of important information being excluded from a doctor's patient health summary.<sup>82</sup>

- 116 I will therefore simply encourage the Department to make the necessary changes and introduce them as quickly as possible.

***Ensuring the non-use of restraints on terminally ill prisoners who have been admitted to hospital for palliative care***

- 117 It was disconcerting to find that Mr Bartlett-Torr was restrained in the manner that he was in the days before his death. Unfortunately, in another inquest held one month after this one, I encountered the death of another prisoner who died in hospital after receiving palliative care and who was also restrained inappropriately. His death occurred in February 2019 and no risk assessment was undertaken for that prisoner's escort either.<sup>83</sup> To paraphrase Oscar Wilde, to inappropriately restrain one prisoner receiving palliative care in hospital may be regarded as a misfortune, but to inappropriately restrain two such prisoners looks like carelessness.<sup>84</sup>
- 118 As stated above, there is no explanation from the Department as to why Mr Bartlett-Torr was incorrectly restrained. In the absence of any explanation, I have formed a view that it most likely occurred due to one of two reasons, neither of which casts the Department in a very good light.
- 119 The first explanation is that it was overlooked by the superintendent (or OIC). The second is that it was caused by a misunderstanding of the applicable policies and procedures. They were incorrectly read to mean that all prisoners are to be subject to the standard regime of restraints when being escorted unless approval had been given for them to be removed by a risk assessment. As there was no risk assessment in existence stating Mr Bartlett-Torr was not to be restrained, he was subsequently restrained in the standard manner. That, of course, was an incorrect reading of section 5.2.1 of COPP 12.3 Conducting Escorts as that section makes it clear that: "*Prisoners with significant medical and/or mobility issues shall not be placed in restraints*". So the standard for such prisoners is that they are not to be restrained during an escort unless there is a requirement they are to be restrained following the completion of a risk assessment which then must be approved by the superintendent/OIC.

---

<sup>82</sup> ts 31.1.23 (Dr Gunson), p.12

<sup>83</sup> Inquest into the death of *Edward Ivan Africh* [2023] WACOR 14 delivered 17 April 2023

<sup>84</sup> "To lose one parent, Mr Worthing, may be regarded as a misfortune, to lose both looks like carelessness." – Oscar Wilde, *The Importance of Being Earnest*



120 The Department has advised it has now taken actions (some of which are very recent) to clarify the restraints regime in order to promote compliance with its policy and procedures, stating:<sup>85</sup>

1. COPP 12.3 has been updated and now explicitly requires that documented EMRA or PMRA is completed to ascertain the need for such restraints prior to the application of restraints;
2. On 14 March 2023, the Department issued an urgent Deputy Commissioner's Broadcast reinforcing the restraints regime, requesting all staff to acquaint themselves with COPP 12.3 and highlighting the provisions where restraints are not to be applied;
3. On 18 April 2023, the Deputy Superintendent issued an email to principal officers, security and movements staff reminding them of the need to undertake documented risk assessments in accordance with COPP 12.3;
4. The Department has updated COPP 12.3 to remove reference to Stage 4 to ensure that consideration is given to all terminally ill prisoners (Stages 1 through to 4).

121 As to point 1 above, the relevant section in the current version of COPP 12.3 Conducting Escorts appears at 5.3 under the heading "*Reasons prohibiting the use of restraints*". Section 5.3.1 reads:<sup>86</sup>

Prisoners with significant medical and/or mobility issues shall not be placed in restraints unless there is a requirement following the completion of an EMRA (or PMRA for coach/air transport) by prison staff and approval by the Superintendent/OIC (or equivalent risk assessment by the Contractor approved by the Contract Director or their delegate). Particular consideration shall be given, but not limited, to the following cohorts:

- a) prisoners who are not conscious
- b) prisoners who are terminally ill, refer to COPP 6.2 – Prisoners with a Terminal Medical Condition
- c) prisoners who are elderly and frail
- d) prisoners with significant mobility issues
- e) prisoners with significant injuries or health challenges which may prevent the use of handcuffs/ankle-cuffs or hobbles
- f) prisoners who are pregnant, in labour, or post-natal care (refer to COPP 11.3 – Use of Force and Restraints)

Section 5.3.2 states:

Where relevant, risk assessments shall be conducted in consultation with medical staff.

---

<sup>85</sup> Letter from David Hughes, Director Operational Policy, Compliance and Contracts dated 21 April 2023, attachment 1, p. 4

<sup>86</sup> COPP 12.3 Conducting Escorts (version 6.0), p. 8

122 It was reassuring to see that the measures taken in points 2, 3 and 4 appear to be in response to questions I was raising with the Department in March and April of 2023 regarding the use of restraints upon terminally ill prisoners receiving palliative care in hospital.

123 I was provided with copies of the Deputy Commissioner's Broadcast on 14 March 2023 and the Deputy Superintendent's email on 18 April 2023. That email included the following:<sup>87</sup>

Should the prisoner's restraints require any variation from the standard set out in COPP 12.3 (either at commencement of the escort or during), the OIC (or delegate) is to ensure that a [sic] External Movement Risk Assessment (EMRA) is completed on TOMS

...

Consult with COPP 12.3.5.3 when completing this form, however please note that the final approval for any removal of all restraints is a custodial decision based on safety of escorting staff, hospital staff and community.

124 I also note that the Deputy Commissioner's Broadcast on 14 March 2023 stated:<sup>88</sup>

Further, staff are reminded of the need to:

...

ensure any variation of the standards for restraining a prisoner has otherwise been approved by the Superintendent following the completion of an External Movement Risk Assessment (EMRA) on the Total Offender Management Solution (TOMS)

125 There should now be no room for any misunderstanding regarding the need for an EMRA for prisoners "*with significant medical and/or mobility issues*". The current version of COPP 12.2 Coordination of Escorts provides:<sup>89</sup>

For movements conducted by the Department, the Superintendent/OIC shall ensure an EMRA is completed prior to movement in the following circumstances:

...

c) when a variation to the recommended standard restraints is required (see COPP 12.3 Conducting Escorts).

126 I will accept the Department's assurances that the actions it has taken since Mr Bartlett-Torr's death will, "*clarify the restraints regime to promote compliance with the COPP*".<sup>90</sup>

127 As I have already noted above, I did not find any documentation that was provided to BRS officers when they took over the guarding of Mr Bartlett-Torr which

---

<sup>87</sup> Email from Wayne Marlow, Deputy Superintendent, Casuarina Prison dated 18 April 2023

<sup>88</sup> Deputy Commissioner's Broadcast dated 14 March 2023 by Deputy Commissioner Christine Ginbey and Acting Deputy Commissioner David Brampton

<sup>89</sup> COPP 12.2 Coordination of Escorts, section 5.6.1

<sup>90</sup> Letter from David Hughes, Director Operational Policy, Compliance and Contracts dated 21 April 2023, attachment 1, p. 4

specified he was attending Bethesda for palliative care. Indeed, Casuarina's Medical Appointment Form would have the reader mistakenly believe there was an expectation he would be returned to Casuarina following treatment.<sup>91</sup> The description of a return to Casuarina raises the question as to whether the BRS officers were actually aware that Mr Bartlett-Torr was being admitted to hospital for palliative care.

128 I sought an explanation from the Department as to this description in the Medical Appointment Form. The Department responded as follows:<sup>92</sup>

The "Reason for Absence" in the MAF<sup>93</sup> is stated such as a precautionary measure so that should Mr Bartlett-Torr recover to a point where the treatment is complete, and he is discharged from Bethesda Hospital then he is returned to Casuarina Prison.

Although there is no reference in the OMI or Hospital Admittance Advice specifically to Mr Bartlett-Torr's terminally ill status, the Department considers that Broadspectrum were likely aware given Mr Bartlett-Torr was being admitted to a hospice. Broadspectrum were also aware that Mr Bartlett-Torr was elderly and frail (as acknowledged within the [Broadspectrum] Risk Assessment dated 17 June 2021). Further, Broadspectrum undertook the hospital sit and therefore would have been aware of Mr Bartlett-Torr's medical circumstances throughout the sit.

129 Notwithstanding the Department's response, I remain of the view that whenever a prisoner is to be admitted to hospital for palliative care, documentation should be provided to the officers responsible for the hospital sit that clearly stipulates the prisoner has been taken to hospital for palliative care and is not expected to be returned to prison.

130 Accordingly, my recommendation to the Department is as follows:

**Recommendation**

**When a prisoner is escorted to a hospital for palliative treatment only, the documentation provided to the officers responsible for the hospital sit should clearly specify that the prisoner is to receive palliative care and is not expected to be returned to prison.**

<sup>91</sup> The reason given for Mr Bartlett-Torr's absence from prison was: "*The offender shall remain at PRIVATE HOSPITAL BETHESDA HOSPITAL 25 Queenslea Dr, Claremont WA 6010 until treatment is complete, thereupon the offender shall be returned to CASUARINA PRISON*" (underlining added), Casuarina Prison Medical Appointment Form dated 17 June 2021, p. 1

<sup>92</sup> Letter from David Hughes, Director Operational Policy, Compliance and Contracts dated 21 April 2023, attachment 1, p. 5

<sup>93</sup> Medical Appointment Form

## CONCLUSION

- 131 Mr Bartlett-Torr was already 86 years old when he was imprisoned for, it would seem, the very first time in his life. It would have no doubt been a very traumatic experience for him. The stress and anxiety he was experiencing when he was initially imprisoned provides the likely explanation for his failure to advise the Department's Health Services of his recent high PSA reading. Thereafter, he only complained of a poor urinary stream. As Mr Bartlett-Torr said this condition was longstanding, it was assumed this was most likely due to BPH (a very common condition in older men) and he was prescribed medication to treat that condition. This all meant that the diagnosis of Mr Bartlett-Torr's prostate cancer was not made until May 2021, when he complained of major symptoms that included nose bleeding, abdominal pain and dizziness.
- 132 By then the advanced stages of the prostate cancer had caused widespread metastatic carcinoma throughout his body, rendering any treatment ineffective. Consequently, the decision was made to treat Mr Bartlett-Torr palliatively before he died at Bethesda on 20 June 2021.
- 133 It would appear that Mr Bartlett-Torr had a very unusual presentation of metastatic prostate cancer. It was particularly aggressive and had infiltrated his bone marrow without any obvious signs showing on scans.
- 134 Even if Mr Bartlett-Torr's prostate cancer had been detected shortly after he was imprisoned, the prospect of him being treated successfully was not good. As Dr Gunson said at the inquest:<sup>94</sup>
- My suspicion is that by – even at the time he entered prison, it was likely to have already been metastatic, but we can't know. And then from my reading on metastatic prostate cancer, within two years, about 79% of people have passed away.
- ...
- My suspicion is that it probably had spread because of the timeframe from when he was diagnosed and when he died, it was so short.
- 135 I am satisfied that apart from some missed opportunities, the care provided to Mr Bartlett-Torr by the Department's Health Services was appropriate.
- 136 The most glaring failure to provide appropriate care to Mr Bartlett-Torr was the use of restraints when he was transferred and then admitted to Bethesda. I have found that given Mr Bartlett-Torr's advanced age, frailty, immobility and extremely poor health, the use of restraints not only failed to comply with the Department's policies and procedures regarding the non-use of restraints on gravely ill prisoners who are being escorted to hospital for end-of-life care, but was completely unnecessary.

---

<sup>94</sup> ts 31.1.23 (Dr Gunson), pp.13-14

- 137 The responsibility for guarding Mr Bartlett-Torr was transferred from Casuarina to BRS once he was admitted to Bethesda. However, the error made in keeping Mr Bartlett-Torr restrained when he was in hospital until shortly before his death arose from the Department's failure to treat him as a prisoner who was not to be restrained. The only basis upon which Mr Bartlett-Torr could be restrained was if a risk assessment was completed that determined restraints was necessary, and the prison superintendent then approved their use. However, no such risk assessment was completed. The error made by the Department was magnified as Casuarina has admitted that had such a risk assessment been completed, it would not have recommended the use of restraints.
- 138 I am satisfied the BRS officers were entitled to assume that as Mr Bartlett-Torr was handed over in restraints, the Department had completed a risk assessment which determined he was to be restrained which the superintendent at Casuarina had then approved. In those circumstances, it would be unfair to now criticise the officers at BRS for simply maintaining the status quo regarding the restraining of Mr Bartlett-Torr once he was in their care.
- 139 I am satisfied that the Department failed to apply section 3.1.12 of the "*Guiding Principles for Corrections in Australia, 2018*" that it proudly quotes on the front page of its COPP 12.3 Conducting Escorts: "*Transport of persons in custody is conducted in a safe and humane manner, taking into account the dignity of the person being transported.*" The Department also abjectly failed to adhere to its stated policy: "*Prisoners are transported in a safe, humane and efficient manner that meets their individual needs, ensures self-respect and privacy as required...*".<sup>95</sup>
- 140 The restraining of Mr Bartlett-Torr from 17 June 2021 until shortly before his death three days later ignored his dignity and self-respect and paid scant regard to his individual needs. Accordingly, I have found that Mr Bartlett-Torr was dealt with in an inhumane manner in the final days of his life. The entity solely responsible for that sad state of affairs was the Department.
- 141 Notwithstanding this finding, I am satisfied that the Department has taken actions since Mr Bartlett-Torr's death to promote compliance with its policies and procedures regarding the treatment of dying prisoners who have been transferred to hospital for palliative care. However, I have made one recommendation regarding the details to be provided to officers conducting the hospital sit of a prisoner receiving palliative care.
- 142 I sincerely hope this Court will not encounter another case in which a dying prisoner, who poses no danger of breaching security or risking the safety of others, is kept restrained to their hospital bed as they receive palliative care.

---

<sup>95</sup> COPP 12.3 Conducting Escorts, p.4

143 I extend my condolences to the family of Mr Bartlett-Torr.

PJ Urquhart  
**Coroner**  
22 May 2023