Coroners Act, 1996
[Section 26(1)]

Western *Australia*

RECORD OF INVESTIGATION INTO DEATH

Ref No: 44/13

I Evelyn Felicia Vicker, Acting State Coroner, having investigated the death of ***Alexander Ronald MacKENZIE****, with an Inquest held at Perth Coroners Court, Court 51, 501 Hay Street, Perth, on 16 December 2013 find the identity of the deceased person was* ***Alexander Ronald MacKENZIE*** *and that death occurred on 20 October 2012 at Sir Charles Gairdner Hospital as a result of Pneumonia in a Man with Advanced Metastatic Angiosarcoma in the following circumstances -*

Counsel Appearing :

Sgt L Housiaux assisted the Acting State Coroner
Mr J Winton (instructed by the State Solicitors Office) appeared on behalf of the Department of Corrective Services

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INTRODUCTION

Alexander Ronald MacKenzie (the deceased) was a sentenced prisoner, both at the time of his diagnosis with two rare medical conditions, and his death on the 20 October 2012.

He had been placed at Casuarina Prison but was transferred to the Palliative Care Unit at Sir Charles Gairdner Hospital on 6 September 2012. He died there on 20 October 2012 in the presence of his partner.

Under the provisions of the *Coroners Act 1996* the death of any prisoner, while held in custody, requires to be examined by way of inquest with findings made with respect to the supervision, treatment and care of that prisoner. While in the care of the Department of Corrective Services (the Department)

The deceased was 60 years of age.

BACKGROUND

The deceased was born on 16 December 1951 in Manjimup as the eldest of six. He described his childhood as unhappy, fraught with domestic violence, alcohol and sexual abuse.

The deceased left school at 14 years of age and left the family home at 17.

He was conscripted into the army at 21 years of age but was discharged a short time later. He married at 25 years of age and had two children. After four years he separated from his wife, before commencing a second marriage which also produced a son. The deceased separated from his second wife in 1998. He described both of his marriages as unhappy.

Shortly after his second marriage ended the deceased commenced a new relationship with the lady who has remained his partner and support until his death.

With respect to this relationship the deceased described to a psychologist he felt supported by his partner and mother but estranged from all his siblings and children due to alleged inappropriate behaviours perpetrated by him.

In his Pre-sentence Report and prison psychological reviews he reported he had been raised by dysfunctional and emotionally inaccessible parents which resulted in him having a substantial difficulty with emotional development and the ability to emphasise with others. His psychologists described him as wary and suspicious in his interactions with others and he deflected scrutiny of himself by adopting vague responses to questions asked of him or lying about his history and behaviour.

It was during the time of the deceased's unhappy marriages he appears to have committed the offences for which he was later arrested in 2001 and sentenced in April 2003.

CRIMINAL HISTORY

The deceased's criminal history dates from when he was 18 years of age and relates mainly to property and traffic related offences.

Until his arrest in August 2001 there were no serious offences recorded for the deceased, however, he had committed the serious offences for which he was later incarcerated.

Briefly, in December 1984, the deceased had attacked and assaulted a prostitute whose services he had requested. He had tied her hands behind her back, tied her feet together, gagged her and sexually assaulted her before placing her in the boot of a motor vehicle. Eventually he released her and she convinced him to let her go. There was no complaint at that time about those offences.

In January 1986 the deceased committed an almost identical offence wherein he again ordered the services of a prostitute and when she arrived he ordered her to confirm her arrival with the agency, however, she advised the agency he had lost his wallet. As a result the deceased

attacked the prostitute, overpowered her, tied her up and repeatedly stabbed her until she died.

Although the deceased was questioned by police in 1986 with respect to this murder he denied any involvement.

Over time with improved forensic techniques being developed, forensic evidence with respect to unsolved murders became available for additional forensic examination. Due to evidence left at the scene of the murder the deceased was identified and arrested in August 2001. He then confessed to the crimes. By this time he was in the relationship with his new partner and apparently not associated with any further serious offending.

At the time of his death the deceased was serving a sentence of strict security life imprisonment with a minimum of 25 years handed down on 17 April 2003 with respect to the events surrounding the murder of the prostitute. He was not eligible for parole until 21 October 2026.

Prison records indicate that while incarcerated the deceased was a quiet prisoner, who maintained a low profile and did not draw negative attention to himself. He appeared to interact well with other prisoners and was police and respectful with prison staff. Unusually he had not

incurred any disciplinary convictions or loss of privileges during his sentence.

The deceased had undertaken a number of appeals in the early part of his incarceration all of which did not find favour with the courts.

Both during his incarceration and following his death his partner maintained continued interaction with the Department with respect to concerns over both his treatment and medical health.

MEDICAL

The deceased was first admitted into Hakea Prison (Hakea) as a remand prisoner in October 2001. On receipt into prison he underwent a standard nursing admission and at risk assessment by medical staff. This disclosed a long history of excessive alcohol consumption and a somewhat fatalistic stance about being in prison. He was not in receipt of any essential medication and not identified with any risk of self harm or suicidal ideation. He complained of neck pain and headaches associated with an old neck injury arising out of a motor vehicle accident, however, no other significant medical problems unrelated to his alcohol abuse.

He was recorded as a long time smoker although it appears he did enquire about giving up smoking and the associated costs of scripts to assist with withdrawal.

The deceased remained at Hakea until March 2004 when he was sentenced and transferred to Casuarina Prison (Casuarina) for a short time. He then returned to Hakea before being returned to Casuarina from May 2004 to November 2010. He was transferred to Acacia Prison between November 2010 and February 2012, however was transferred back to Casuarina which had a well equipped infirmary, where he remained until his death, with periods of time in hospital. When in hospital he was under guard by SERCO officers and still considered to be in the custody of the Department.

In 2002 the deceased first complained of occasional twinges in his central chest region, radiating to his left arm, with accompanying shortness of breath.

In the following years the deceased was treated at Sir Charles Gairdner Hospital and Armadale Health Services as the result of various health concerns relating to cyst removal, and ongoing pain, which at the time was not related to any specific difficulties.

The deceased's medical file is extensive and of most significance is the diagnosis of two rare conditions during his incarceration.

In 2007 he was diagnosed with epithilioid angiosarcoma, an incurable cancer of the lining of the blood vessels and, on an unknown date, of aortitis, a rare disorder of unknown aetiology affecting the connective tissue of blood vessels.

In response to a very comprehensive letter of concern from the deceased's partner about his treatment whilst in prison Dr Max Kamien[1] conducted a comprehensive review of the deceased's medical care whilst in custody on behalf of the Department.

I do not consider that the fact Dr Kamien undertook the review for the Department detracts from the value of his analysis. Dr Kamien considered the deceased, despite the deceased's partner's concerns, did receive comprehensive medical input whilst incarcerated.

The deceased's medical file is extensive and the difficulty for the Department and its doctors when working with prisoners in the prison environment is the fact there is not a specific doctor responsible for the care of a prisoner. This can lead to some discontinuity in the interpretation of the medical

[1] Exhibit 1 Volume 1 Tab 17

investigations, even though all appropriate investigations have been undertaken.

Dr Kamien points out the main problem in diagnosing difficult and rare conditions is the lack of any one personal doctor or general physician that would have the skill and could take the time to put all the pieces of the deceased's medical jig saw puzzle together. Dr Kamien doubted the deceased's care would have been any better in the community in view of the rareness of his ultimate diagnoses.

It transpires that in response to the deceased's complaints of pain in October 2003 one of the prison doctors ordered a chest xray and ultrasound scan of the deceased's upper abdomen. The chest xray was reported as normal but the radiologist picked up an unusual finding in the ultrasound of *"a thickening around the entire intra abdominal part of the aorta that was 46 mm in diameter (2x normal). He thought it most likely to be a sign of active peri-aortitis."*

According to Dr Kamien this was a significant finding which then got *"lost in between all the deceased's copious medical records, multiple medical attendances"* and hospital referrals. He considered it possible *"One can surmise that if that information had been passed onto the haematology registrar it would have alerted her to enlarge her search for the causes of the deceased's ongoing*

symptoms and abnormal blood results. It was also important information for the immunological services who eventually diagnosed the cause of the lytic bone lesions in his pelvis." These both related to his later rare medical diagnoses.

The effect of this is appropriate investigations were undertaken, but the implications arising from those investigations were not properly understood until the deceased's final diagnosis in 2007. These investigative procedures were undertaken in 2003. The difficulty with the deceased's angiosarcoma diagnosis is it is incurable, malignant, very painful, and a very rare cancer.

Dr Kamien also examined the partner of the deceased's concerns with respect to the use of shackles from a medical perspective while in hospital. He commented he found the use of shackles when the deceased was too ill to mobilise successfully, the only incident he had discovered in the documentation with respect to the deceased's medical care where he was treated with *"less kindness and dignity than he could have expected had he been in the normal community"*.

Unfortunately, due to the penalty clauses in the contracts binding private security agencies for the purposes of transport and supervision of prisoners requiring hospital attention, the companies involved are very concerned

prisoners be restrained in some way regardless of the attitude of doctors. There are policies in place where these can be relaxed but it needs to be done with proper negotiation and effective contact with the appropriate prison authorities.

Despite the deceased's diagnosis of angiosarcoma in 2007, and his being given a life expectancy of less than one year he survived another five years. He was provided with medical care with hospitalisation when necessary, while the sarcoma grew and extended into the base of his spine and surrounding soft tissue. This is a painful process.

The deceased gradually deteriorated despite combined medical care on both a daily basis in the Casuarina Infirmary and on transfer to the Palliative Care Unit at Sir Charles Gairdner Hospital on the 6 September 2012.

The deceased died on the 20 October 2012 at Sir Charles Gairdner Hospital in the Palliative Care Unit in the presence of his partner.

It is unlikely his prognosis would have been improved in the community.

His application for release on a Royal Prerogative of Mercy was not supported due to the seriousness of his original offending.

CONCLUSION AS TO THE DEATH OF THE DECEASED

I am satisfied the deceased was a 60 year old sentenced prisoner serving a 25 year term of imprisonment for serious offences imposed on 25 March 2003. The deceased experienced pain during his incarceration and received extensive medical input which eventually diagnosed two rare and incurable diseases from which he ultimately died in 2012.

I find death arose by way of natural causes.

SUPERVISION TREATMENT AND CARE OF THE DECEASED

The extensive medical records for the deceased held by the Department indicate he received substantial and reasonable management of his various medical problems instigated by the prison doctors and directed by external specialists and consultants.

I have great sympathy for the deceased's partner's perspective. She felt she had fought constantly for the deceased to receive medical management. I accept her discussion prisoners' with less informed advocacy would have had difficulty following the deceased's medical input. However, there is no doubt the deceased was receiving extensive medical input, whether it was explained appropriately or not.

It is a matter of fact prisoners in the prison system cannot have individual case management by a specific medical practitioner, nor for many reasons may this be desirable. One is dealing with a very artificial and difficult environment and prisoners must be managed by a range of practitioners and nurses to cater for the diverse needs of a prison community.

I accept clues as to the deceased's rare conditions may have alerted a single carer to the fact of his illnesses earlier, however, there is no evidence this would have extended his life any more significantly than occurred with the treatment he received.

In all the circumstances I find the deceased's supervision, treatment and care was appropriate to the conditions in an institution caring for many prisoners, some of whom have extremely intricate medical histories.

E F VICKER
ACTING STATE CORONER
December 2013