
JURISDICTION : CORONER'S COURT OF WESTERN AUSTRALIA
ACT : CORONERS ACT 1996
CORONER : Michael Andrew Gliddon Jenkin, Coroner
HEARD : 8 - 9 DECEMBER 2021
DELIVERED : 15 DECEMBER 2021
FILE NO/S : CORC 956 of 2018
DECEASED : SATHITPITTAYAYUDH, OHM

Catchwords:

Nil

Legislation:

Nil

Counsel Appearing:

Mr W Stops appeared to assist the coroner.

Mr S Pack and Ms L Italiano (State Solicitor's Office) appeared for the Department of Justice.

Counsel Appearing:

Coroners Act 1996
(Section 26(1))

RECORD OF INVESTIGATION INTO DEATH

*I, Michael Andrew Gliddon Jenkin, Coroner, having investigated the death of **Ohm SATHITPITTAYAYUDH** with an inquest held at Perth Coroners Court, Central Law Courts, Court 85, 501 Hay Street, Perth, on 8 - 9 December 2021, find that the identity of the deceased person was **Ohm SATHITPITTAYAYUDH** and that death occurred on 12 August 2018 at Karnet Prison Farm, from cardiac arrhythmia with acute circulatory failure in a man with acute drug effect/toxicity (5F-ADB) in the following circumstances:*

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SUPPRESSION ORDER

After considering an application from Mr Sam Pack (counsel for the Department of Justice) I was persuaded that it would be appropriate to make the following order:

SUPPRESSION ORDER

On the basis that it would be contrary to the public interest, I make an Order under section 49(1)(b) of the *Coroners Act 1996* (WA) that there be no reporting or publication of any document or evidence that would reveal any information about the methods of detecting illicit drugs, including synthetic cannabinoids, with respect to persons under the care and control of the Director-General of the Department of Justice.

Order made by: MAG Jenkin, Coroner (8.12.21)

INTRODUCTION

1. Ohm Sathitpittayayudh (Ohm)¹ was 38-years of age when he died on 12 August 2018 at Karnet Prison Farm (Karnet) from cardiac arrhythmia with acute circulatory failure after ingesting a synthetic cannabinoid product known as “*Kronic*”. At the time of his death, Ohm was a sentenced prisoner in the custody of the Director-General of the Department of Justice (the Department) and was therefore a “*person held in care*”. In such circumstances, a coronial inquest must be held.^{2,3,4,5,6,7,8,9,10,11,12}
2. 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 the person received while in that care.¹³ I held an inquest into the circumstances of Ohm’s death on 8 - 9 December 2021.
3. The Brief of documentary evidence adduced at the inquest comprised two volumes and the inquest focused on the supervision, treatment and care that Ohm received while he was in custody, as well as the circumstances of his death.
4. The following witnesses gave evidence at the inquest:
 - a. Mr Ray Edge (Superintendent, Karnet Prison Farm);
 - b. Sen. Const. Nigel Brown; (Author, Coronial Squad Investigation report);
 - c. Mr Derrick Spooner (Kitchen supervisor, Karnet Prison Farm);
 - d. Mr Matthew Roberts (Prison officer, Karnet Prison Farm);
 - e. Mr Liam Gibbs (Prison officer, Karnet Prison Farm)
 - f. Professor David Joyce (Physician and clinical toxicologist); and
 - g. Mr David Brampton (Deputy Commissioner Adult Male Prisoners).

¹ At his family’s request, Mr Sathitpittayayudh was referred to as Ohm during the inquest. I have adopted the same convention in this finding. No disrespect is intended.

² Exhibit 1, Vol 1, Tab 7C, Supplementary Post Mortem Report (02.12.18)

³ Exhibit 1, Vol 1, Tab 8A, Letter - Dr J White (29.11.21)

⁴ Exhibit 1, Vol 1, Tab 8B, Letter - Dr J McCreath (18.06.19)

⁵ Exhibit 1, Vol 1, Tab 33, Report - Prof. D Joyce (20.06.21)

⁶ Exhibit 1, Vol 1, Tab 5A, P92 Identification of deceased person, Visual means, (13.08.18)

⁷ Exhibit 1, Vol 1, Tab 5B, P92 Identification of deceased person, Fingerprints (16.08.18)

⁸ Exhibit 1, Vol 1, Tab 5C, Statement - Sgt. B Horlock, Forensic Fingerprint Bureau, (16.08.18)

⁹ Exhibit 1, Vol 1, Tab 5D, PathWest Coronial Identification Report, Fingerprints (16.08.18)

¹⁰ Exhibit 1, Vol 1, Tab 6, Life Extinct certification (12.08.18)

¹¹ Section 16, *Prisons Act 1981* (WA)

¹² Sections 3 & 22(1)(a), *Coroners Act 1996* (WA)

¹³ Section 25(3) *Coroners Act 1996* (WA)

MR SATHITPITTAYAYUDH

Background and offending history^{14,15}

5. Ohm was born in Thailand on 5 October 1979, and came to Australia with his family in 1991. He had three step siblings and finished his schooling in Perth. Ohm then completed certificates in civil engineering and computing and worked for various employers including a mineral analysis company and a powder coating business.
6. Ohm had a history of polysubstance use including alcohol, cannabis and methylamphetamine. He also reportedly experimented with cocaine and MDMA (Ecstasy). There are conflicting accounts as to when Ohm's polysubstance use began. His cannabis use is said to have started at either 16 or 17-years of age, his methylamphetamine use at 19 or 27-years of age and his alcohol use at around 25-years of age. Ohm's experimentation with cocaine and Ecstasy apparently occurred when he was about 31-years of age.^{16,17}

Offending history

7. Ohm had an extensive criminal record and by 2014, he had accumulated 31 convictions for various offences including stealing, burglarly and drug-related matters. He told prison staff that as a result of his methylamphetamine use, he had accumulated significant debts which he hoped to pay off with the proceeds of his criminal offending.^{18,19,20}
8. On 29 August 2014, in the District Court of Western Australia at Perth, Ohm was sentenced to a term of 11 years imprisonment (with parole eligibility) for unlawful possession of a handgun and possessing methamphetamine and Ecstasy with intent to sell or supply. Following a successful appeal, his sentence was reduced to 10 years and 6 months.^{21,22,23}

¹⁴ Exhibit 1, Vol 1, Tab 2, Investigation report - Sen. Const. N Brown (25.07.19), p3

¹⁵ Exhibit 1, Vol 1, Tab 11, Memo - Sen. Const. N Brown - Victimology report (14.08.18)

¹⁶ Exhibit 1, Vol 2, Tab 36.8, Cognitive Skills - Initial; Assessment (14.11.14), pp1-2

¹⁷ Exhibit 1, Vol 1, Tab 30, Sentencing Remarks, O'Dea DCJ (29.08.14), pp3-4

¹⁸ Exhibit 1, Vol 2, Tab 36.1, History for Court - Criminal & Traffic

¹⁹ Exhibit 1, Vol 2, Tab 36.9, Treatment - Substance use offending checklist, p3

²⁰ Exhibit 1, Vol 1, Tab 30, Sentencing Remarks, O'Dea DCJ (29.08.14), pp3

²¹ Exhibit 1, Vol 1, Tab 30A, Sentencing Remarks, O'Dea DCJ (29.08.14), p10

²² Exhibit 1, Vol 2, Tab 36.3, TOMS Warrants module print-out

²³ Exhibit 1, Vol 1, Tab 30C, [2015] WASCA 152, per McLure P, Mazza JA and Hall J at para 44

Karnet Prison Farm

9. Karnet is a minimum-security prison that accommodates 366 prisoners in four units that comprise a mix of single, double and quadruple cells. Karnet is a working farm and provides meat, poultry and dairy products to the Department's other prisons. This gives prisoners the opportunity to learn a variety of useful, transferable skills. Many of the tasks performed by prisoners occur in "*business areas*" outside the secured perimeter fence and some prisoners undertake job placements in the community and/or leave Karnet on "*approved leaves of absence*".^{24,25}
10. At the time of his death, Ohm was housed in Hut 21 at Karnet. The hut is one of a number of similar structures and is 3 metres wide and about 3 metres long. It is accessed by means of a lockable door fitted with a viewing hatch and furnished with a single bed, bedside table, desk and cupboards.
11. At the time of Ohm's death, there were hooks on the inside of the hut doors, directly above the viewing hatches. These hooks were subsequently removed so that clothing items could not be placed on the hooks thereby obscuring the viewing hatch, as happened in this case.^{26,27}

Prison history²⁸

12. During his incarceration, Ohm had the following placements:
 - a. *Hakea Prison*: 04.04.13 - 18.12.14 (623 days);
 - b. *Acacia Prison*: 18.12.14 - 15.09.17 (1,002 days); and
 - c. *Karnet Prison Farm*: 15.09.17 - 12.08.18 (332 days).
13. While in prison, Ohm completed several skills courses and a drug rehabilitation program and he had expressed interest in completing trade qualifications in building and construction and/or as a chef. Ohm was not an Australian citizen, although he did have permanent residency status.

²⁴ Exhibit 1, Vol 2, Tab 40, Statement - Supt. R Edge (30.11.21), paras 6-12 and ts 08.12.21 (Edge), pp6-7

²⁵ Exhibit 1, Vol 2, Tab 36.35, Statement - Mr L Gibbs (10.05.21), para 4

²⁶ Exhibit 1, Vol 2, Tab 36, Death in Custody Review (Oct 21), pp18-19 and ts 08.12.21 (Edge), pp13-14

²⁷ Exhibit 1, Vol 1, Tab 3, Memo - Sen. Const. A Van Andel (25.08.18), p2 and ts 08.12.21 (Gibbs), p42

²⁸ Exhibit 1, Vol 2, Tab 36, Death in Custody Review (Oct 21), pp9-12

14. Ohm's residency status, along with the seriousness of his offending behaviour meant that there was a distinct possibility that he would have been deported to Thailand after completing his prison term. Ohm was recorded as being a "*person of interest*" by the Department of Immigration and Border Protection (as it then was) on 15 September 2014.
15. On 21 January 2016, Ohm underwent a routine drug screen test at Acacia Prison and methylamphetamine and buprenorphine (an opioid pain medication) was detected in his system. He was formally charged and was penalised by a loss of privileges for 14-days. Other than this infraction, Ohm's behaviour in prison was exemplary.²⁹
16. On 18 August 2017, Ohm's security rating was reclassified to minimum and, in view of his good behaviour, he was transferred to Karnet. On 12 December 2017, his application to be considered for external activities or work camps was refused because his residency status was inconsistent with the departmental policy for such placements.^{30,31,32}
17. Whilst he was at Karnet, Ohm was subjected to routine drug screens, the last of which occurred on 12 July 2018. All of these screens returned negative results. Ohm was also subjected to regular "*pat down*" body searches and his hut was regularly searched. None of these searches unearthed anything untoward.^{33,34,35,36}
18. Ohm was described as a popular prisoner and he received regular visits from family members. He kept in touch with his family between visits via occasional letters and regular phone calls. In a phone conversation with his mother on 11 August 2018 (the day before he died), Ohm reportedly seemed happy about his achievements. Ohm was employed in the kitchen at Karnet where his behaviour, work ethic and general demeanour were very well regarded.^{37,38,39,40}

²⁹ Exhibit 1, Vol 2, Tab 36.14, Incident Summary Report and Minutes (21.01.16)

³⁰ Exhibit 1, Vol 2, Tab 36.12, Individual Management Plan (18.08.17)

³¹ Exhibit 1, Vol 2, Tab 36.15, Classification Review (18.08.17)

³² Exhibit 1, Vol 2, Tab 36.18, Suitability for External Activities or Work Camps (01.12.17), pp8-9

³³ Exhibit 1, Vol 2, Tab 36.26, Substance use tests results

³⁴ Exhibit 1, Vol 2, Tab 36.27, Body searches report

³⁵ Exhibit 1, Vol 1, Tab 31, Local Searching Strategy

³⁶ Exhibit 1, Vol 2, Tab 36.28, Cell searches report

³⁷ Exhibit 1, Vol 1, Tab 15A, Statement - Mr D Spooner (17.10.21), para 6 and ts 08.12.21 (Spooner), p21

19. Mr Derrick Spooner is a Vocational Support Officer at Karnet and is responsible for supervising prisoners working in the kitchen. He described Ohm in these terms:

I recall him as being a polite and mild-mannered prisoner who was always neatly presented and on time to his shifts. Ohm [had] an excellent work ethic and [was] very organised, as such he was promoted to the role of head cook.^{41,42}

Medical History^{43,44,45,46}

20. Ohm's medical history included asthma, migraines, hay fever, high cholesterol, gastroesophageal reflux and hives. He exercised regularly while he was in custody and occasionally sought medical attention for minor issues.
21. There is no evidence that Ohm ever experienced any mental health issues and he never reported any suicidal or self-harm ideation. He told prison health staff he had quit smoking in January 2018 and that as a result, his asthma had improved and he no longer needed a ventolin puffer.
22. A review of health services provided to Ohm concluded that the care he was provided during his incarceration was "*appropriate and timely*", although it was noted that he had not received annual health checks in either 2015 or 2017.
23. With respect to Ohm's use of synthetic cannabinoids, such as Kronic, the Health Services review noted:

Despite his marijuana use in the community prior to his incarceration, Ohm had not given any indication of ongoing in-prison THC (i.e.: cannabis) or Kronic use or presented with side effects. Marijuana use prior to incarceration is very common for prisoners and in the absence of drug induced psychosis does not impact on patient management.⁴⁷

³⁸ Exhibit 1, Vol 2, Tab 36.13, CM5 - Regular Contact Reports (19.07.15; 21.08.16; 26.08.17 & 20.02.18)

³⁹ Exhibit 1, Vol 1, Tab 11, Memo - Sen. Const. N Brown - Victimology report (14.08.18)

⁴⁰ Exhibit 1, Vol 1, Tab 27, Karnet Prison - Recorded Call Report (02.08.18 - 12.08.18)

⁴¹ Exhibit 1, Vol 1, Tab 15A, Statement - Mr D Spooner (17.10.21), para 5 and ts 08.12.21 (Spooner), p21

⁴² See also: Exhibit 1, Vol 2, Tab 33.21, Work History - Offender

⁴³ Exhibit 1, Vol 2, Tab 36.4, At Risk Management System - Reception Intake Assessment (04.04.13)

⁴⁴ Exhibit 1, Vol 1, Tab 35, Health Services Summary (Oct 21), pp3-8

⁴⁵ Exhibit 1, Vol 2, Tab 36, Death in Custody Review (Oct 21), p17

⁴⁶ Exhibit 1, Vol 1, Tab 34, Echo medical records (F1431545)

⁴⁷ Exhibit 1, Vol 1, Tab 35, Health Services Summary (Oct 21), p8

CIRCUMSTANCES OF DEATH

*Observations prior to death*⁴⁸

24. On 12 August 2018, Ohm finished his usual shift in the kitchen at Karnet at about 2.00 pm. During his shift he showed no signs of being affected by any illicit substances and he completed all allocated tasks to his usual high standards. Ohm had his evening meal at about 4.15 pm, and spoke with Mr Spooner at length about the next day's food requirements. He seemed "*in a positive frame of mind*" and Mr Spooner did not think Ohm was affected by any illicit substances at that time either.^{49,50}
25. Six routine muster checks were conducted at Karnet on 12 August 2018, including a formal muster at 6.30 pm. During this check, Officer Cowie says Ohm was standing by his cell door in accordance with prison rules and "*appeared to be in good health and coherent*". Ohm replied "*Good night boss*" when Officer Cowie said good night to him.^{51,52,53}
26. Officers Roberts and Gibbs also conducted a welfare check at 8.30 pm, which was "*unremarkably quiet*". There is no evidence that in the days leading up to Ohm's death, anyone at Karnet noticed anything untoward about his mood or mental state.^{54,55}

Ohm is discovered^{56,57,58,59,60,61,62,63,64}

27. At about 10.05 pm, Officers Roberts and Gibbs were conducting a routine muster check at Karnet. Officer Roberts lifted the viewing hatch on the door of Ohm's hut and attempted to look in, but a prison-issue jacket hanging on a hook inside the door obscured his view.

⁴⁸ Exhibit 1, Vol 2, Tab 36, Death in Custody Review (Oct 21), p14

⁴⁹ Exhibit 1, Vol 1, Tab 15C, Statement - Mr D Spooner (08.10.18) and ts 08.12.21 (Spooner), pp22-23

⁵⁰ Exhibit 1, Vol 1, Tab 15A, Statement - Mr D Spooner (17.10.21), para 11

⁵¹ Exhibit 1, Vol 1, Tab 13, Statement - Mr P Cowie (09.10.18)

⁵² Exhibit 1, Vol 2, Tab 36.30, Count History - Facility, Karnet Prison Farm (12.08.18)

⁵³ Exhibit 1, Vol 1, Tab 32, Reports & Occurrences book (12.08.18), p436248

⁵⁴ Exhibit 1, Vol 1, Tab 2, Investigation report - Sen. Const. N Brown (25.07.19), p8

⁵⁵ Exhibit 1, Vol 1, Tab 19B, Statement - Officer M Roberts (13.08.18), paras 23-27 and ts 08.12.21(Roberts), pp32-33

⁵⁶ Exhibit 1, Vol 1, Tab 2, Investigation report - Sen. Const. N Brown (25.07.19), pp1-6

⁵⁷ Exhibit 1, Vol 2, Tab 36, Death in Custody Review (Oct 21), pp14-16

⁵⁸ Exhibit 1, Vol 1, Tab 18, Incident Report - Mr R Ellis (12.08.21)

⁵⁹ Exhibit 1, Vol 1, Tab 19A, Incident Report - Mr M Roberts (12.08.21) and ts 08.12.21(Roberts), pp34-36

⁶⁰ Exhibit 1, Vol 1, Tab 20A, Incident Report - Mr S Condren (12.08.21)

⁶¹ Exhibit 1, Vol 1, Tab 17, Statement - Mr L Gibbs (13.08.18), pp1-6

⁶² Exhibit 1, Vol 2, Tab 36.35, Statement - Mr L Gibbs (10.05.21), paras 8-30

⁶³ Exhibit 1, Vol 1, Tab 19B, Statement - Officer M Roberts (13.08.18), paras 31-56

⁶⁴ Exhibit 1, Vol 1, Tab 22, Statement - Mr T Ellis (06.09.18), paras 8-25

28. Officer Roberts unlocked the hut and found Ohm lying in the foetal position with his head “*slightly bedded*” in his doona. He called out to Officer Gibbs and together, the officers entered the hut. Ohm had blue coloured lips and was unresponsive. There was vomit around his mouth that was pooling onto the doona and what appeared to be a large urine stain around his buttocks.
29. Officer Gibbs checked Ohm’s vital signs and confirmed he had no pulse and was not breathing, while Officer Roberts made a “*Code Red*” medical emergency call using his prison radio. The officers placed Ohm into the recovery position and Officer Gibbs cleared vomit from Ohm’s mouth before the officers started CPR. Ohm vomited several times and on each occasion, Officer Gibbs cleared Ohm’s mouth before CPR was resumed.⁶⁵
30. Meanwhile, Senior Officer S Condren and Officers T Ellis, R Ellis and B Turner all responded to the Code Red call and made their way to Ohm’s hut. An Oxy Viva (brought to the scene by Officer R Ellis) was used to administer oxygen and Officer Gibbs applied defibrillator pads to Ohm’s chest. No shockable heart rhythm was detected and therefore, no shock was delivered by the defibrillator.⁶⁶
31. At 10.10 pm, Officer Walker called emergency services as directed by Senior Officer Condren. The first ambulance arrived at Karnet at 10.27 pm, and the second at 10.35 pm. Ambulance officers took over resuscitation efforts and noted “*no trauma evident on patient’s body*”. Furniture was removed from Ohm’s hut in order to provide more effective CPR, but despite three doses of adrenaline, Ohm could not be revived.⁶⁷
32. Resuscitation was discontinued and Ohm was declared deceased at 10.51 pm on 12 August 2018.^{68,69,70,71,72}

⁶⁵ ts 08.12.21 (Gibbs), p43

⁶⁶ Exhibit 1, Vol 1, Tab 18, Incident Report - Officer R Ellis (12.08.18) and ts 08.12.21 (Gibbs), p40

⁶⁷ ts 08.12.21 (Gibbs), pp41-42

⁶⁸ Exhibit 1, Vol 1, Tab 21, Incident Report - Officer S Walker (12.08.18)

⁶⁹ Exhibit 1, Vol 1, Tab 28, SJA Patient care record, Crew SER21N2 (12.08.21)

⁷⁰ Exhibit 1, Vol 1, Tab 28, SJA Patient care record, Crew PIN21N2 (12.08.21)

⁷¹ Exhibit 1, Vol 1, Tab 6, Life Extinct Certification(12.08.21)

⁷² Exhibit 1, Vol 1, Tabs 20B & 20C, Incident Report Minutes and Summary

33. For the sake of completeness, I note that several prison records record the time of Ohm's death as 10.52 pm. However, the Life Extinct form completed by one of the attending ambulance officers shows the time of death as 10.51 pm, being the time CPR was ceased and I have therefore adopted that time in this finding.^{73,74,75,76}
34. A search of Ohm's hut after his death found a small blue plastic bowl on his bedside table. The bowl contained a small metal "cone piece" (used to smoke drugs), some plant material and a small amount of white crystalline powder. Analysis of the bowl's contents confirmed that the plant material was tobacco and the crystalline powder contained a substance known as 5F-ADB,⁷⁷ a component of Kronic.^{78,79,80,81,82,83,84}

Aftermath

35. Mr Spooner said that Ohm's death had a "huge effect" on prisoners at Karnet and those who worked in the kitchen were "visibly upset" on hearing of Ohm's death. Prisoners told Mr Spooner they were very impressed by the efficient and compassionate conduct of officers who responded to the incident and having reviewed the available evidence, I agree that those officers should be commended for their efforts.⁸⁵
36. Mr Spooner said that after Ohm's death he was approached by a number of prisoners who claimed that the Kronic used by Ohm had been given to Prisoner A, who passed it on prisoner B.⁸⁶ The prisoners also said that Prisoner B was present when Ohm used Kronic, but had run away when Ohm had a bad reaction. Mr Spooner says he passed this information to prison security staff.^{87,88}

⁷³ Exhibit 1, Vol 1, Tab 20A, Incident Report - Mr S Condren (12.08.21)

⁷⁴ Exhibit 1, Vol 1, Tabs 20B & 20C, Incident Report Minutes and Summary

⁷⁵ Exhibit 1, Vol 1, Tab 6, Life Extinct Certification(12.08.21)

⁷⁶ Exhibit 1, Vol 1, Tab 28, SJA Patient care record, Crew SER21N2 (12.08.21)

⁷⁷ 5F-ADB stands for: Methyl 2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate

⁷⁸ Exhibit 1, Vol 1, Tab 2, Investigation report - Sen. Const. N Brown (25.07.19), p7 and ts 08.12.21(Brown), p18

⁷⁹ Exhibit 1, Vol 1, Tab 10, Certificate of Approved Analyst (24.08.18)

⁸⁰ Exhibit 1, Vol 1, Tab 3, Memo - Sen. Const. A Van Andel (25.08.18), pp2-3

⁸¹ Exhibit 1, Vol 1, Tab 5, Running sheet - Sen. Const. Sen. Const. A Van Andel (12.08.18)

⁸² Exhibit 1, Vol 1, Tab 19B, Statement - Officer M Roberts (13.08.18), para 58 and ts 08.12.21(Roberts), p36

⁸³ Exhibit 1, Vol 1, Tab 29, Forensic disclosure report (12.06.19), pp5-6

⁸⁴ ts 09.12.21 (Joyce), pp47-48

⁸⁵ Exhibit 1, Vol 1, Tab 15A, Statement - Mr D Spooner (17.10.21), paras 15-16 and ts 08.12.21(Spooner), p29

⁸⁶ Prisoners A & B were inmates at Karnet at the relevant time. I have chosen not to identify them by name.

⁸⁷ Exhibit 1, Vol 1, Tab 15A, Statement - Mr D Spooner (17.10.21), paras 17 & 19 and ts 08.12.21(Spooner), pp27-28

⁸⁸ Exhibit 1, Vol 2, Tab 36.36, Security Reports (19.08.18)

37. Although the intelligence from Mr Spooner was investigated by prison security staff, it was determined that the information was unreliable. For that reason the source of the Kronic used by Ohm has not been identified.^{89,90,91}
38. In his police statement, Prisoner A said he was approached by Prisoner B who had a “load” of Kronic and wanted to know if Prisoner A knew anyone who might want to buy some. Prisoner A told Prisoner B he didn’t know anyone that used the substance. Police attempted to locate Prisoner B, who had by that stage been released from prison, but were unable to do so. Prisoner B has therefore not had the opportunity to respond to the allegations made against him.⁹²
39. In any event, in his police statement, Prisoner A said:

I was aware that there was a problem at Karnet [with] people using and supplying Kronic. I wish to state that I never used or supplied Kronic to anyone whilst I was there...I wish to state categorically that I did not supply [Kronic] to Ohm. I have never used or supplied drugs within the prison system.⁹³

40. In his statement, Mr Spooner said he believed there had been an increase in the use of Kronic at Karnet after Ohm’s death. He said that as a result he speaks to the prisoners he supervises and warns them of the dangers associated with synthetic cannabinoids. Mr Spooner said he believed that prisoners would benefit from:

[B]etter education related to drug use and more specifically education on the effects of Kronic”.⁹⁴

41. In my view, this suggestion has considerable merit. As I will outline later in this finding, I have made a recommendation that the Department deliver targeted education aimed at informing prisoners about the very real risks of synthetic cannabinoids like Kronic.

⁸⁹ Exhibit 1, Vol 1, Tab 2, Investigation report - Sen. Const. N Brown (25.07.19), p8 and ts 08.12.21(Brown), pp19-20

⁹⁰ Exhibit 1, Vol 1, Tab 15A, Statement - Mr D Spooner (17.10.21), paras 17 & 19

⁹¹ Exhibit 1, Vol 2, Tab 40, Statement - Supt. R Edge (30.11.21), para 55 and ts 08.12.21(Edge), p14

⁹² Exhibit 1, Vol 1, Tab 14, Statement - Prisoner A (27.09.18), p6

⁹³ Exhibit 1, Vol 1, Tab 14, Statement - Prisoner A (27.09.18), pp3-4, 6 & 11

⁹⁴ Exhibit 1, Vol 1, Tab 15A, Statement - Mr D Spooner (17.10.21), paras 20 & 23 and ts 08.12.21(Spooner), pp24-25

ISSUES RELATING TO SYNTHETIC CANNABINOIDS

*General*⁹⁵

42. Professor Joyce is a physician and clinical toxicologist and he provided the Court with a report on role of synthetic cannabinoids in Ohm's death. Professor Joyce explained that synthetic cannabinoids, such as Kronic, are a subgroup of psychoactive substances that can be smoked to reproduce the intoxicating effects of natural cannabis.
43. There are numerous synthetic cannabinoids and their effects vary, but the substances work by stimulating the same brain receptors that respond to the tetrahydrocannabinol found in natural cannabis. Professor Joyce noted that developments in the manufacture of these substances have focussed on improving potency, meaning that intoxication can be achieved from "*very low human exposure*".
44. Synthetic cannabinoids are generally mixed with combustible plant material in order to resemble natural cannabis and allow the product to be smoked. Given the clandestine nature of the manufacturing process, it is unsurprising that few of the chemicals used to make synthetic cannabinoids have ever been tested for safety. As Professor Joyce noted: "*Practically everything we know of their toxicology comes from human misadventure with their use*".⁹⁶
45. Presumably because synthetic cannabinoids were once legally available in Perth, there is a widespread misconception that they are safe. However, when it became clear that synthetic cannabinoids (including Kronic) could be highly toxic, the sale of these products was banned on 17 June 2011.⁹⁷
46. Further, in 2015, the Western Australian government introduced legislative provisions banning the sale, supply, manufacture, advertising or promotion of any psychoactive substance that was not already captured by existing legislation. These provisions came into effect on 18 November 2015, well before Ohm's death.^{98,99}

⁹⁵ Exhibit 1, Vol 1, Tab 33, Report - Prof. D Joyce (20.06.21), paras 12-15 and ts 09.12.21 (Joyce), pp47-52

⁹⁶ Exhibit 1, Vol 1, Tab 33, Report - Prof. D Joyce (20.06.21), para 14

⁹⁷ [2020] WACOR 35, pp59-60, per Coroner S Linton (as Her Honour then was)

⁹⁸ Sections 8N-8U, Part 111B, *Misuse of Drugs Act 1981* (WA).

47. Staff at the Forensic Science Laboratory at the ChemCentre noted that after the introduction of that legislation there was a reduction in the detection of synthetic cannabinoids. However, these substances do continue to be detected in coronial cases and it is apparent that new types of synthetic cannabinoids are regularly emerging.¹⁰⁰

Strategies for elimination^{101,102,103}

48. The evidence before me demonstrates that the Department makes a concerted effort to address the scourge of illicit substances in the prison system. Those efforts include, but are not limited to, targeted and inter-agency operations; routine and specific searches of prisoners, cells and other areas within the prison estate; and the use of specialist resources and emergent technologies in relation to testing and detection.

49. Information about the methods, technologies and resources used by the Department to minimise illicit drugs in prisons is obviously highly sensitive from a security perspective. If information about matters were to become widely known, the effectiveness of current and future strategies would be severely compromised.

50. In light of those concerns, I made a suppression order at the start of the inquest with respect to evidence about these matters. Therefore, I do not intend to traverse that evidence in this finding. However, having carefully reviewed the available materials, I am satisfied that the Department's efforts are squarely aimed at reducing the prevalence of illicit substances (including synthetic cannabinoids) in the prison system within the limits of the currently available technology.

51. In 2016, the Office of the Auditor General (OAG) undertook a performance audit to assess the effectiveness of the Department's strategies to minimise drugs and alcohol in prisons. The OAG acknowledged it was unrealistic to expect prisons to be completely free of these substances and made a number of recommendations aimed at "*practical and achievable actions*". The OAG also suggested that the Department build on existing strategies.

⁹⁹ [2020] WACOR 35, p60

¹⁰⁰ [2020] WACOR 35, p61, per Coroner S Linton (as she then was)

¹⁰¹ Exhibit 1, Vol 2, Tab 40, Statement - Supt. R Edge (30.11.21), paras 17-42 and ts 08.12.21 (Edge), pp7-12

¹⁰² Exhibit 1, Vol. 1, Tab 48, Statement - Dep. Commr. D Brampton, paras 28-152 and ts 09.12.21 (Brampton), pp54-55

¹⁰³ Exhibit 1, Vol. 2, Tab 41, Statement - Mr J Rowbottom (07.12.21), paras 4-19

52. The Superintendent of Karnet (Officer Edge) expressed the view that prevention was better than cure. For that reason, he advised that at Karnet, there is a “zero-tolerance” policy in relation to illicit substance use and related behaviours. Officer Edge said that prisoners at Karnet are well aware that if they are caught using or possessing illicit substances, they will be sent to another prison.¹⁰⁴
53. As Karnet is a minimum-security prison and aims to help reintegrate prisoners back into the general community, prisoners are afforded a number of privileges. These include up to 17-hours per day of out of cell time, the opportunity to attend work placements outside of the Karnet precincts, and a greater degree of freedom of movement within Karnet itself. This makes Karnet an attractive option and hopefully the zero-tolerance policy will encourage prisoners not to risk their placement by being caught in possession of, or using illicit substances whilst there.

Targeted education

54. In addition to efforts to detect illicit substances in prisons, and stop these substances coming into prisons in the first place, the Department has attempted to reduce demand for illicit drugs through prisoner education and rehabilitation services.^{105,106} According to Deputy Commissioner David Brampton (Officer Brampton):

Every prison health centre has information leaflets and posters available to promote the awareness of blood borne viruses and sexually transmitted diseases and condoms are available from dispensing machines. Health promotion and education is provided by nursing staff both opportunistically and at specified times such as before and after testing for blood borne viruses.¹⁰⁷

55. While these efforts are commendable, in my view a more targeted and proactive approach to educating prisoners about the dangers of synthetic cannabinoids should be considered. Given that products like Kronic are smoked rather than injected, there appears to be a widely held belief that they are “safe”.¹⁰⁸

¹⁰⁴ ts 08.12.21 (Edge), p10

¹⁰⁵ See also: Exhibit 1, Vol. 2, Tab 40B, Karnet Prison Farm Drug Management Strategy, pp7 & 10

¹⁰⁶ See also: ts 08.12.21 (Edge), pp12-13

¹⁰⁷ Exhibit 1, Vol. 1, Tab 48, Statement - Dep. Commr. D Brampton, paras 109-110 and ts 09.12.21 (Brampton), p62

¹⁰⁸ ts 08.12.21 (Spooner), p27

56. Nothing could be further from the truth. As I will discuss, users of synthetic cannabinoids risk serious and unpredictable consequences, including death. From my perspective there is also a problem with leaving it up to prisoners to access health information and/or relying on “*opportunistic*” encounters between prisoners and nursing staff. In those contexts, it seems all too easy for key messaging to either not be accessed, or to be discounted.
57. Officer Brampton also made the very good point that literacy levels amongst the prison population are lower than in the general community. For that reason, it may be impossible for many prisoners to meaningfully access written material such as posters and pamphlets.¹⁰⁹
58. There is also the further issue that the level of “*health literacy*” amongst the prison population is likely to be significantly lower than in the general community. As Officer Brampton pointed out, the first time many prisoners are reviewed by a medical practitioner is when they enter the prison system. It is also well known that levels of polysubstance use amongst prisoners are higher than in the general community and that it is these addictive behaviours which drive the demand for illicit substances in the first place.¹¹⁰
59. Following Ohm’s death, prison staff at Karnet collaborated with prisoners to create a poster warning of the dangers of using synthetic cannabinoids and Kronic. Whilst the poster is a good start, in my view it does not adequately address the unpredictability of outcomes faced by users of synthetic cannabinoids. At the Inquest, Officer Brampton said: “*we can do better*”.^{111,112,113}
60. It is safe to say that the dangers of common illicit substances such as heroin, cocaine and methylamphetamine are well known. However, Kronic, which is apparently widely available in the community, is subject to the widely held (and completely false) perception that it is safe to use and impossible to detect.¹¹⁴

¹⁰⁹ ts 09.12.21 (Brampton), p62 and see also: ts 08.12.21(Spooner), pp25-26

¹¹⁰ ts 09.12.21 (Brampton), p62

¹¹¹ Exhibit 1, Vol 2, Tab 36.34, Warning poster - Kronic

¹¹² Exhibit 1, Vol 2, Tab 40, Statement - Supt. R Edge (30.11.21), para 50

¹¹³ ts 09.12.21 (Brampton), p57

¹¹⁴ ts 08.12.21(Edge), p16; ts 08.12.21(Spooner), p27 and ts 09.12.21 (Brampton), p56

61. This strongly suggests that a targeted education package aimed at prisoners is warranted. Whilst there may be challenges associated with the detection of synthetic cannabinoids, it is simply wrong to suggest that these substances are “*undetectable*”. Further, as Ohm’s death (and the two other Kronic-related prisoner deaths in Australia) demonstrate in stark fashion, synthetic cannabinoids are anything but safe.¹¹⁵
62. As noted, because of the circumstances of Ohm’s death, Mr Spooner now warns prisoners under his supervision about the dangers associated with the use synthetic cannabinoids. Mr Spooner also confirmed that prisoners at Karnet wrongly believe that substances like Kronic are safe and cannot be detected. Mr Spooner said he keeps Ohm’s photograph in his office, which he uses to deliver the powerful message that synthetic cannabinoids can and do kill.¹¹⁶
63. At the inquest, Professor Joyce and Officers Brampton, Edge and Gibbs all agreed that prisoners would benefit from the sort of targeted education on the dangers of synthetic cannabinoids suggested by Mr Spooner, assuming it was delivered in an appropriate manner.^{117,118}
64. Mr Spooner and Officer Brampton each said that the education package should be developed by health professionals with input from prisoners. This would help ensure that the information in the package was as relevant and accessible as possible. Both also agreed that Peer Support prisoners could be usefully engaged to help professional health staff communicate key messages.¹¹⁹
65. As the Department grapples with the challenges of preventing illicit substances from entering the prison system and detecting those that do, measures like the zero-tolerance policy at Karnet and the suggested targeted education program will assume an even greater importance.

¹¹⁵ Exhibit 1, Vol. 1, Tab 48, Statement - Dep. Commr. D Brampton, para 120

¹¹⁶ ts 08.12.21(Spooner), pp24 & 27

¹¹⁷ ts 08.12.21(Spooner), pp25-26; ts 08.12.21(Edge), pp15-16; and ts 08.12.21(Gibbs), p42

¹¹⁸ ts 09.12.21(Joyce), p50 and ts 09.12.21(Brampton), pp56-57 & 62

¹¹⁹ ts 08.12.21(Spooner), p26 and ts 09.12.21(Brampton), p62

CAUSE AND MANNER OF DEATH

Post mortem examination^{120,121}

66. A forensic pathologist, Dr Judith McCreath (Dr McCreath) carried out an external post mortem examination of Ohm's body at the State Mortuary on 15 August 2018. Dr McCreath found excess fluid in Ohm's lungs, and rib and sternal fractures that were consistent with resuscitation efforts.
67. I am aware that members of Ohm's family raised concerns about him having been the victim of an assault and possibly sustaining a head injury. Dr McCreath's examination found no evidence of any injury to Ohm's head and specialist examination of his brain was normal.

*Toxicological analysis*¹²²

68. Toxicological analysis detected paracetamol in Ohm's system, along with 5F-ADB and its metabolite. As I will discuss, 5F-ADB (one of the common ingredients in Kronic) is highly toxic. It was not possible for the analyst to determine the level of 5F-ADB in Ohm's system because this substance is unstable in post-mortem blood samples.

*Effects of synthetic cannabinoids*¹²³

69. Professor Joyce explained that natural cannabis is not associated with cardiac deaths because dose limitations prevent people from consuming a toxic amount. By contrast, synthetic cannabinoids are highly potent.
70. Professor Joyce noted that because of the uncontrolled manner in which synthetic cannabinoids are manufactured, there is a high probability they will contain unknown chemicals that can have unpredictable toxic and/or lethal effects. This is certainly true for 5F-ADB, which Professor Joyce described as a "*dangerous substance*".¹²⁴

¹²⁰ Exhibit 1, Vol 1, Tab 7A, Supplementary Post Mortem Report (15.08.18)

¹²¹ Exhibit 1, Vol 1, Tab 8B, Letter - Dr J McCreath (18.06.19)

¹²² Exhibit 1, Vol 1, Tab 9, ChemCentre toxicology report (29.08.18)

¹²³ Exhibit 1, Vol 1, Tab 33, Report - Prof. D Joyce (20.06.21), paras 14 & 16-20 and ts 09.12.21 (Joyce), pp48-52

¹²⁴ ts 09.12.21 (Joyce), pp47 & 50-52

71. The adverse effects of synthetic cannabinoids have been widely reported in the literature. These effects include psychosis, seizures, coma, paranoia, tachycardia, hypertension, acute coronary syndrome, cardiac arrhythmias, myocardial infarction, acute kidney injury, multi-organ failure and sudden cardiac death.
72. Professor Joyce explained that cardiovascular deaths have been reported following use of synthetic cannabinoids with very varied chemical structures. Although the exact “*pathway to death*” in individual cases is often untraceable (because a lethal arrhythmia leaves no specific evidence) a study of deaths related to 5F-ADB, found that “*acute circulatory failure after drug inhalation*” was the commonest cause of death.

Blood concentration and toxicity¹²⁵

73. As Professor Joyce explained, there is only an indistinct relationship between the measured blood concentration of synthetic cannabinoids and their lethal effects. He explained that one of the reasons for this is that these substances are highly potent and can exert intoxicating and toxic effects at levels which are difficult to detect in the blood.
74. In addition, many of the synthetic cannabinoids (including 5F-ADB) are very unstable in biological fluids. It is also difficult to know with certainty which component of the product is causing the main toxic effect, and additionally, there may also be genetic conditions which make some users more susceptible to the potential lethal effects of synthetic cannabinoids.
75. Applying these concepts to the present case, Professor Joyce noted:

In [Ohm’s] case, it may simply be observed that other deaths have occurred from synthetic cannabinoids over a range of concentrations, so whatever the real concentration of 5F-ADB at the time of death, it would still be consistent with synthetic cannabinoid-related death.¹²⁶

¹²⁵ Exhibit 1, Vol 1, Tab 33, Report - Prof. D Joyce (20.06.21), para 22, pp6-7 and ts 09.12.21 (Joyce), pp49-50

¹²⁶ Exhibit 1, Vol 1, Tab 33, Report - Prof. D Joyce (20.06.21), para 22, p6

Professor Joyce's conclusion as to cause of death¹²⁷

76. After reviewing the available evidence, including the circumstances in which Ohm was found, Professor Joyce expressed the view that the most likely cause of Ohm's death was a lethal cardiac arrhythmia provoked by ingesting Kronic. Death by this means would manifest as acute circulatory failure which, as noted, has been found to be the most likely cause of death when 5F-ABD is involved.
77. Professor Joyce considered that the alternative possibility, namely drug-induced respiratory failure, was less likely to be the cause of Ohm's death because the signs typically associated with respiratory obstruction and asphyxia deaths were not found in his case.
78. Given the fact that Ohm had clearly used a product containing 5F-ADB shortly before his death, Professor Joyce concluded that:

The case for 5F-ADB poisoning as the cause of death would seem quite strong, and might be accepted if there is not stronger evidence for an alternate cause.¹²⁸

Dr White's review of Dr McCreath's report^{129,130}

79. Dr McCreath noted that although there had been case reports of cardiovascular deaths related to 5F-ADB, there was "*no known lethal level, no method of quantification and no clinical or pathological evidence of cardiovascular compromise*", she was unable to say, with certainty, that 5F-ADB had caused Ohm's death. Dr McCreath suggested a cardiac arrhythmia was possible, but ultimately was unable to ascertain the cause of Ohm's death.^{131,132}
80. Dr McCreath had retired by the time of the inquest, and so Dr Jodi White (forensic pathologist and Head of the Department of Forensic Pathology & State Mortuary Service) kindly undertook a review of the post mortem evidence in this case.

¹²⁷ Exhibit 1, Vol 1, Tab 33, Report - Prof. D Joyce (20.06.21), paras 22-24 and ts 09.12.21 (Joyce), pp50-51

¹²⁸ Exhibit 1, Vol 1, Tab 33, Report - Prof. D Joyce (20.06.21), para 24

¹²⁹ Exhibit 1, Vol 1, Tab 8A, Letter - Dr J White (29.11.21)

¹³⁰ Exhibit 1, Vol 1, Tab 7C, Supplementary Post Mortem Report (02.12.21)

¹³¹ Exhibit 1, Vol 1, Tab 7A, Supplementary Post Mortem Report (15.08.18)

¹³² Exhibit 1, Vol 1, Tab 8B, Letter - Dr J McCreath (18.06.19)

81. Dr White noted that the post mortem examination of Ohm's body had found no evidence of significant aspiration or respiratory obstruction in the lungs and made the following observation about the opinion expressed by Professor Joyce:

Considering this report and given what we currently now know within the emerging literature in regard to synthetic cannabinoids, and the known circumstances in this case, I concur with Prof. Joyce's conclusions that it has been observed that other sudden deaths have occurred from the use of synthetic cannabinoids likely over a range of concentrations and so, whatever the concentration was in [Ohm's] case at the time of death, it would be consistent with a sudden death related to the use of this particular drug.¹³³

Manner and cause of death

82. Dr White provided the Court with a supplementary post mortem report on 2 December 2021, in which she expressed the conclusion that the cause of Ohm's death was cardiac arrhythmia with acute circulatory failure in a man with acute drug effect/toxicity (5F-ADB).^{134,135,136}
83. At the inquest, Professor Joyce said he agreed with Dr White's conclusion and repeated his observation that the clinical signs normally associated with deaths from respiratory failure were absent in Ohm's case.¹³⁷
84. On the basis of the evidence of Professor Joyce and Dr White, I find that the cause of Ohm's death was cardiac arrhythmia with acute circulatory failure in a man with acute drug effect/toxicity (5F-ADB).
85. Further, as there is no evidence that Ohm used Kronic for anything other than recreational purposes, I find that his death occurred by way of accident.¹³⁸

¹³³ Exhibit 1, Vol 1, Tab 8A, Letter - Dr J White (29.11.21), p4

¹³⁴ Exhibit 1, Vol 1, Tab 8A, Letter - Dr J White (29.11.21), p5

¹³⁵ Exhibit 1, Vol 1, Tab 7C, Supplementary Post Mortem Report (02.12.21)

¹³⁶ Exhibit 1, Vol 1, Tab 7C, Supplementary Post Mortem Report (02.12.21)

¹³⁷ ts 09.12.21 (Joyce), p50

¹³⁸ ts 08.12.21 (Brown), pp19 & 20

QUALITY OF SUPERVISION, TREATMENT AND CARE

- 86.** The evidence before me establishes that Ohm maintained regular contact with his family and was well regarded by prison staff and other prisoners. He undertook regular exercise and had no chronic illnesses or major medical conditions and never displayed any signs of mental health issues.
- 87.** Apart from one disciplinary infraction in 2016, Ohm's behaviour whilst he was in custody was exemplary and his security classification was appropriately reviewed. Ohm was gainfully employed as head cook at Karnet, a role he clearly enjoyed and was good at.
- 88.** After carefully considering the available evidence, I am satisfied that during the time he was incarcerated, the standard of supervision, treatment and care provided to Ohm was appropriate. Further, I find that Ohm's medical care was commensurate with community standards.

*Genetic issues*¹³⁹

- 89.** For the sake of completeness, I note that in 2019, the Court made repeated but unsuccessful attempts to contact Ohm's family to suggest that family members may wish to consider undergoing testing to exclude the possibility that Ohm may have been predisposed to a cardiac event after using Kronik due to an underlying genetic condition.
- 90.** Although this risk may be remote, I would urge Ohm's family to consider undergoing this testing, and I note that samples of Ohm's blood have been retained by the State Mortuary for this purpose.¹⁴⁰

¹³⁹ Exhibit 1, Vol 1, Tab 8A, Letter - Dr J White (29.11.21), pp 3 & 5

¹⁴⁰ Exhibit 1, Vol 1, Tab 8A, Letter - Dr J White (29.11.21), pp 3 & 5

RECOMMENDATIONS

91. In view of the observations I have made, I make the following recommendation:

Recommendation

To help reduce demand for synthetic cannabinoids (such as Kronic) in the prison system in Western Australia, the Department of Justice (the Department) should consider proactively delivering targeted education to prisoners aimed at raising awareness of the unpredictable and potentially lethal consequences of using these substances.

To ensure that the education being delivered is as accessible and relevant as possible, the Department should consider consulting with prisoners as well health, education and communications professionals in the development of the education materials and should consider asking Peer Support Prisoners to help health professionals deliver this education.

Comments relating to recommendations

92. After reviewing the available evidence, I determined it would be appropriate to make the above recommendation. In accordance with my usual practice, counsel assisting, Mr William Stops forwarded a draft of this recommendation to Mr Pack on 8 December 2021.¹⁴¹
93. Mr Pack replied to Mr Stops' email on 13 December 2021, advising that the Department was supportive of the recommendation I intended to make.¹⁴²

¹⁴¹ Email - Mr W Stops (08.12.21)

¹⁴² Email - Mr S Pack (13.12.21)

CONCLUSION

94. Ohm was 38-years of age when he died at Karnet from acute circulatory failure after using the synthetic cannabinoid, Kronic. There have been other deaths related to these products both in the prison system and in the wider community.
95. I can only hope that Ohm's tragic death may help to dispel the false impression that some prisoners may still have that synthetic cannabinoids (including Kronic) are safe. Clearly they are not. The use of synthetic cannabinoids is a very dangerous practice which has unpredictable and potentially fatal consequences.
96. In view of these risks and the misapprehensions that apparently persist about Kronic and related substances, I have recommended that the Department consider delivering education to prisoners aimed at alerting them to the clear and present danger posed by synthetic cannabinoids.

MAG Jenkin
Coroner
15 December 2021