
JURISDICTION : CORONER'S COURT OF WESTERN AUSTRALIA
ACT : CORONERS ACT 1996
CORONER : MICHAEL ANDREW GLIDDON JENKIN, CORONER
HEARD : 28 AUGUST 2024
DELIVERED : 5 SEPTEMBER 2024
FILE NO/S : CORC 62 of 2022
DECEASED : PARNELL, ROBERT FREDRICK

Legislation:

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

Counsel Appearing:

Ms S Markham appeared to assist the coroner.

Mr CD Tan (State Solicitor's Office) appeared for the Department of Justice.

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* that there be no reporting or publication of the name of any prisoner (other than the deceased) housed at Albany Regional Prison on or about 16 May 2022. Any such prisoner is to be referred to as "Prisoner [*Surname Initial*]".

Order made by: MAG Jenkin, Coroner (28.08.24)

Coroners Act 1996
(Section 26(1))

AMENDED RECORD OF INVESTIGATION INTO DEATH

*I, Michael Andrew Gliddon Jenkin, Coroner, having investigated the death of **Robert Fredrick PARNELL** with an inquest held at Perth Coroners Court, Central Law Courts, Court 85, 501 Hay Street, Perth, on 28 August 2024, find that the identity of the deceased person was **Robert Fredrick PARNELL** and that death occurred on 16 May 2022 at Albany Health Campus, 30 Warden Avenue, Spencer Park from butane and propane toxicity in the following circumstances:*

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INTRODUCTION

1. Robert Fredrick Parnell (Robert)¹ was 29 years of age when he died at Albany Health Campus (AHC) on 16 May 2022, from butane and propane toxicity after inhaling the propellants of a can of canola oil spray.^{2,3,4,5,6,7,8,9}
2. At the time of his death, Robert was a sentenced prisoner at Albany Regional Prison (ARP) in the custody of the Director-General of the Department of Justice (Department). Robert was thereby a “*person held in care*” for the purposes of the *Coroners Act 1996* (WA).^{10,11}
3. In such circumstances, a coronial inquest must be held. Further, where, as here, the death is of a person held in care, I am required to comment on the quality of the supervision, treatment and care that the person received while in that care.¹²
4. I held an inquest on 28 August 2024, and examined the supervision, treatment and care that Robert received while he was in custody, as well as the circumstances of his death.
5. The Brief of evidence adduced at the inquest comprised two volumes, and included separate investigation reports from the Department, and the Western Australian Police Force. The following witnesses gave evidence at the inquest:
 - a. Mr Christopher Bangs; (VSO¹³ & Chef Instructor in the ARP kitchen);
 - b. Mr Rahul Ramakrishnan (VSO & Chef Instructor in the ARP kitchen);
 - c. Mr Craig Tester (Security Manager, ARP);
 - d. Dr Catherine Gunson (Acting Deputy Director Medical Services); and
 - e. Ms Toni Palmer (Senior Review Officer).

¹ At the request of his family, the deceased was referred to as “Robert” at the inquest, and in this finding

² Exhibit 1, Vol 1, Tab 1, P100 Report of Death (17.05.22)

³ Exhibit 1, Vol 1, Tab 2.1, Report - Sen. Const. M Fazio (19.10.23)

⁴ Exhibit 1, Vol 1, Tab 3, WACHS Life Extinct Form (16.05.22)

⁵ Exhibit 1, Vol 1, Tab 14, WACHS Death in Hospital Form (16.05.22)

⁶ Exhibit 1, Vol 1, Tab 4, P92 Identification of deceased person, Visual means (16.05.22)

⁷ Exhibit 1, Vol 1, Tab 5.1, Supplementary Post Mortem Report (09.10.23)

⁸ Exhibit 1, Vol 1, Tab 6.2, Final Toxicology Report (14.09.23)

⁹ Exhibit 1, Vol 1, Tab 2.1, Report - Sen. Const. M Fazio (19.10.23), pp1, 3 & 10

¹⁰ Section 16, *Prisons Act 1981* (WA)

¹¹ Section 3, *Coroners Act 1996* (WA)

¹² Sections 22(1)(a) & 25(3), *Coroners Act 1996* (WA)

¹³ VSO is the abbreviation for Vocation Support Officer, and these staff provide vocational/educational services to prisoners

ROBERT

Background and offending history^{14,15,16,17}

6. Robert was born in Rockingham on 24 December 1992, and had an older brother, and **three older half siblings, one of whom was deceased**. As an infant, Robert was reportedly removed from his mother for a period of time, and when his parents divorced, Robert lived with his father, and later with his mother.
7. As a child, Robert was diagnosed with Attention Deficit Hyperactivity Disorder (ADHD), dyslexia, and poor eyesight and he reportedly experienced learning difficulties. Robert was described as someone who was “*easily influenced by others*”, and as having difficulty “*knowing the difference between right and wrong*”. He was also said to be someone who would just follow others to “*be part of the crowd*”.¹⁸
8. According to his brother, Robert experienced “*mental abuse*” from his mother and at her request “*would commit criminal offences to win his mother’s love and respect*”. According to his brother, the treatment Robert received from his mother caused Robert “*to become depressed and use illicit substances and alcohol*”.¹⁹
9. Robert was said to enjoy manual labour, and after leaving school, he briefly worked on a cattle station before helping his father with a lawn mowing round. Robert was in receipt of the disability support pension, and he enjoyed camping and fishing as well as making “*picture frames and lighter holders out of matchsticks*”.²⁰
10. Prior to his most recent admission to prison in 2019, it appears Robert did not have stable accommodation, and that he did not have a GP he saw regularly. Robert’s brother (who kept in regular contact) said “*everyone loved (Robert)*”, and that Robert “*was in a good place while in prison*”.²¹

¹⁴ Exhibit 1, Vol 2, Tab 1, Death in Custody Review (25.06.24), p7 and ts 28.08.24 (Palmer), pp35-40

¹⁵ Exhibit 1, Vol 1, Tab 2.1, Report - Sen. Const. M Fazio (19.10.23), pp10-11

¹⁶ Exhibit 1, Vol 1, Tab 8, Statement - Mr B Parnell (08.02.23), paras 2-57

¹⁷ Exhibit 1, Vol 1, Tab 24, Health Services Summary (26.08.24), pp3 & 5-6

¹⁸ Exhibit 1, Vol 1, Tab 8, Statement - Mr B Parnell (08.02.23), paras 16-26

¹⁹ Exhibit 1, Vol 1, Tab 8, Statement - Mr B Parnell (08.02.23), paras 47-5

²⁰ Exhibit 1, Vol 1, Tab 8, Statement - Mr B Parnell (08.02.23), paras 21 & 29-34

²¹ Exhibit 1, Vol 1, Tab 8, Statement - Mr B Parnell (08.02.23), paras 40-46

Offending history^{22,23,24,25}

11. Robert had a very extensive criminal record and by 2021, he had accumulated 224 convictions for offences including: stealing, armed robbery, assault, burglarly, possession of drugs, property damage, and breaches of community, and suspended imprisonment orders.
12. Robert served several periods of imprisonment, and on 19 May 2021, in the District Court of Western Australia at Perth, he was sentenced to a term of five years and six months imprisonment (with parole eligibility) for the offences of armed robbery, and pretending to be armed in a way that may cause fear. Robert's earliest release date was calculated as 14 February 2023.

Medical History^{26,27,28}

13. In addition to ADHD, Robert's medical history included anxiety, depression, and cognitive/intellectual disability, and he had a history of polysubstance use including alcohol, tobacco, methylamphetamine, cannabis, heroin, and suboxone. Robert also had a history of sniffing solvents and petrol, which reportedly started when he was about 13 years of age. As a child, Robert received treatment for hyperkinetic disorder and solvent sniffing from a child and adolescent health service.²⁹
14. Robert would sometimes present in "*an agitated or anxious manner*",³⁰ and in 2016, he told a prison doctor about an admission he had to AHC, during which he was reportedly diagnosed with schizophrenia, and prescribed antipsychotic medication. However, this appears to be the only time he ever referred to this diagnosis, and he was never diagnosed with schizophrenia during his incarceration. In 2018, Robert was treated for self-inflicted superficial burns and lacerations, and he had also reportedly "*smashed his hand through a window*" in an apparent self-harm attempt.³¹

²² Exhibit 1, Vol 2, Tab 1, Death in Custody Review (25.06.24), p7

²³ Exhibit 1, Vol 2, Tab 1.3, History for Court - Criminal and Traffic

²⁴ Exhibit 1, Vol 1, Tab 24, Health Services Summary (26.08.24), p3

²⁵ Exhibit 1, Vol 2, Tab 1.8, Management and Placement - Sentenced (27.05.21)

²⁶ Exhibit 1, Vol 1, Tab 24, Health Services Summary (26.08.24), pp4-6 and ts 28.08.24 (Gunson), pp27-33

²⁷ Exhibit 1, Vol 1, Tab 20, Echo medical records - Mr R Parnell

²⁸ Exhibit 1, Vol 1, Tab 2.1, Report - Sen. Const. M Fazio (19.10.23), pp11-13

²⁹ Exhibit 1, Vol 1, Tab 8, Statement - Mr B Parnell (08.02.23), paras 35-38

³⁰ Exhibit 1, Vol 2, Tab 1.18, Statement - PO M Reeby (20.06.24), para 6

³¹ Exhibit 1, Vol 1, Tab 24, Health Services Summary (26.08.24), p5 and ts 28.08.24 (Gunson), pp28-29

15. Although in the past Robert had described “*vague suicidal ideation*”, there is no record of Robert ever having made any attempt to take his life.³² In 2018, whilst Robert was in custody, notes from a Mental Health Team meeting record the following observations about his mental health:

[S]oft mental health signs related to intellectual limitations and possible autism spectrum disorder - resulting in limited coping/adaptive capacity. Evident in interview with Mental Health Nurse.³³

16. During his incarceration, Robert was never managed on the At Risk Management System (ARMS), the Department’s primary suicide prevention strategy. ARMS aims to provide staff with clear guidelines to assist with the identification and management of prisoners at risk of self-harm and/or suicide.³⁴ There is no evidence that during the time Robert was at ARP, he ever experienced any significant mental health issues, and he never reported any suicidal or self-harm ideation.
17. A fellow prisoner at ARP (Prisoner J) said Robert was “*a happy go lucky bloke and had no issues in the prison*”.³⁵ Another prisoner at ARP (Prisoner C) said Robert “*had no issues in prison, everyone loved him, he was funny, you looked after him as he was a bit banged in the head*”.³⁶
18. During his last period of incarceration, Robert was counselled about smoking cessation on a number of occasions “*by a nurse, a dentist and a medical officer*”. Robert was also given education and offered medications that would assist him to stop smoking. However, when this was last discussed with him in July 2021, Robert told prison staff that “*he did not want to quit smoking*”.³⁷
19. Whilst he was at ARP, Robert visited the medical centre for the treatment of various minor issues including lacerations, dental issues, and the repair of his spectacles.

³² Exhibit 1, Vol 1, Tab 24, Health Services Summary (26.08.24), p5

³³ Exhibit 1, Vol 1, Tab 24, Health Services Summary (26.08.24), p5

³⁴ At Risk Management System Manual (2019) and ts 28.08.24 (Palmer), p36

³⁵ Exhibit 1, Vol 1, Tab 11, Statement - Prisoner J (undated), para 12

³⁶ Exhibit 1, Vol 1, Tab 9, Statement - Prisoner C (undated), para 23

³⁷ Exhibit 1, Vol 1, Tab 24, Health Services Summary (26.08.24), p8

20. Following his death, the Department conducted a review of the health services Robert was provided while he was in custody (Health Summary), in which Dr Gunson expressed the following conclusion:

Health Services can confirm that during his time in custody, (Robert) received appropriate health care. Regular medical, nursing, and allied health assessments and reviews were completed, and interventions were placed to ensure follow-up and continuity. Although some small areas for improvement were identified, it is highly unlikely that these affected the ultimate outcome for (Robert). Staff provided patient-centred care and always responded quickly to issues when Robert requested assistance. In conclusion, the health care provided to (Robert) was overall of an excellent standard, and equivalent to or better than the standard he would have received in the community.³⁸

CIRCUMSTANCES OF DEATH

Prison history^{39,40,41}

21. During his last period of incarceration (which began on 16 August 2019) Robert had the following prison placements:

- a. *Hakea Prison*: 16.08.19 - 27.03.20 (224 days);
- b. *Casuarina Prison*: 27.03.20 - 15.11.21 (598 days);⁴² and
- c. *Albany Regional Prison*: 15.11.21 - 16.05.22 (182 days).

22. Whilst he was at ARP, Robert's security rating was "medium". An Individual Management Plan noted that at times, he displayed "non-compliant and impolite behaviours", and that he needed prompting to maintain "cell hygiene". Nevertheless, Robert appeared to interact appropriately with his peers. He was undertaking part-time studies "in education" at the time of his death, and was employed as a cleaner in the ARP kitchen.^{43,44}

³⁸ Exhibit 1, Vol 1, Tab 24, Health Services Summary (26.08.24), p13 and ts 28.08.24 (Gunson), p33

³⁹ Exhibit 1, Vol 2, Tab 1, Death in Custody Review (25.06.24), pp7-16 and ts 28.08.24 (Palmer), pp33-40

⁴⁰ Exhibit 1, Vol 2, Tab 1.9, Education and Vocational Training Checklist (02.06.21)

⁴¹ Exhibit 1, Vol 2, Tab 1.12, Classification Review (28.12.21)

⁴² Exhibit 1, Vol 2, Tab 1.6, Administrative Decision Slip (27.03.20)

⁴³ Exhibit 1, Vol 2, Tab 1.11, Individual Management Plan (04.11.21)

⁴⁴ Exhibit 1, Vol 2, Tab 1.24, Prisoner Work History Report (16.08.19-16.05.22)

23. During his incarceration, Robert received 34 visits, 31 of which were “official”. Robert sent 59 items of mail to friends and family, and he kept in regular contact with his father using the Prisoner Telephone System. Robert was the subject of five random drug and alcohol tests, all of which returned negative results.^{45,46,47}
24. Vocational Support Officer Rahul Ramakrishnan (VSO Ramakrishnan) who was a Chef Instructor at the ARP kitchen said this about Robert:

My memory of Robert (was that he) was approachable and a nice person. I recall he was a hard worker who listened to the instructions given to him by staff. Robert was employed in the kitchen as a cleaner.⁴⁸

Robert’s actions prior to death^{49,50}

25. In a statement to police, Prisoner A says he was Robert’s cellmate at ARP for about two weeks prior to Robert’s death, and that Robert had told him he “used to inhale aerosol from cans”. Prisoner A says he told Robert that this was “stupid” and that Robert could “hurt himself”.⁵¹
26. Prisoner A says Robert replied that he knew it was stupid and promised “he wouldn’t do it again”. Nevertheless, Prisoner A says he was aware that Robert was continuing to inhale canola oil spray (or at least the propellants in cans of canola oil spray) which he sourced from the ARP kitchen, in order to “get a high from it”.⁵²
27. Prisoner A believed Robert had started inhaling propellants from cans of canola oil spray “as a joke”, but that “for some reason he got into it”. Prisoner A also says Robert told him he had been “inhaling gas about a week before”, and had last done so two days before he died. Prisoner A says Robert never brought cans of canola oil spray back to the cell because prisoners were searched at the end of their kitchen shifts.^{53,54}

⁴⁵ Exhibit 1, Vol 2, Tab 1.25, Visits History Report & Mail Report (16.08.19-16.05.22)

⁴⁶ Exhibit 1, Vol 2, Tab 1.27, Prisoner Telephone System Call Report (16.08.19-16.05.22)

⁴⁷ Exhibit 1, Vol 1, Tab 23.1, Statement - Mr C Tester (14.08.24), paras 25-32

⁴⁸ Exhibit 1, Vol 2, Tab 1.15, Statement - VSO R Ramakrishnan (28.06.24), paras 6-7

⁴⁹ Exhibit 1, Vol 1, Tab 10, Statement - Prisoner A (undated), paras 4-22

⁵⁰ See also: Exhibit 1, Vol 1, Tab 11, Statement - Prisoner J (undated), paras 4-12

⁵¹ Exhibit 1, Vol 1, Tab 10, Statement - Prisoner A (undated), paras 4-10

⁵² Exhibit 1, Vol 1, Tab 10, Statement - Prisoner A (undated), paras 11-15

⁵³ Exhibit 1, Vol 1, Tab 10, Statement - Prisoner A (undated), paras 17-22

⁵⁴ See also: ts 28.08.24 (Bangs), pp13-14

Events leading to Robert's discovery^{55,56,57,58,59,60,61,62,63,64,65,66}

28. At about 8.50 am on 16 May 2022, Robert left his unit and went to the ARP kitchen to start work. During the shift, VSO Ramakrishnan says he had routine work-related interactions with Robert, and he described Robert's behaviour as "*normal*". He also said Robert was a quiet person who "*didn't really talk to others*", although he did "*engage with peers that he was friends with*".⁶⁷
29. VSO Ramakrishnan completed a muster check at about 3.15 pm, and recalled wanting to give Robert "*a little attention*". VSO Ramakrishnan recalls speaking with Robert sometime between 3.30 pm and 3.45 pm, and during their chat, Robert mentioned his father, and that a family member was incarcerated at another prison. Following this conversation, VSO Ramakrishnan says he did not see Robert again.⁶⁸
30. Prisoner C says he saw Robert walk out of the kitchen toilet, and when someone asked him where Robert was about 10 minutes later, Prisoner C replied that Robert "*must have gone back to the toilet*".
31. VSO Ramakrishnan explained that there are two dry storerooms attached to the ARP kitchen, the smaller of which is about the size of a toilet. The storerooms contain various items used in the kitchen, and cans of canola oil spray were stored in the smaller room. The storerooms and a change area (including a hand washing area) are visible from the ARP kitchen, but the toilet is out of view. VSO Ramakrishnan also says he did not see Robert go into the storeroom.^{69,70,71,72}

⁵⁵ Exhibit 1, Vol 2, Tab 1, Death in Custody Review (25.06.24), pp12-15

⁵⁶ Exhibit 1, Vol 1, Tab 9, Statement - Prisoner C (undated), paras 4-35

⁵⁷ Exhibit 1, Vol 1, Tab 23.1, Statement - Mr C Tester (14.08.24), paras 10-12

⁵⁸ Exhibit 1, Vol 1, Tab 23.2, Incident Summary Report (18.05.22)

⁵⁹ Exhibit 1, Vol 2, Tabs 1.13 & 1.14, CCTV footage showing Mr Parnell before he attended the ARP kitchen (16.05.22)

⁶⁰ Exhibit 1, Vol 2, Tab 1.15, Statement - VSO R Ramakrishnan (28.06.24)

⁶¹ Exhibit 1, Vol 2, Tab 1.16, Incident Reports & Incident Report Minutes (16.05.22)

⁶² Exhibit 1, Vol 1, Tab 12, Incident Reports (16.05.22)

⁶³ Exhibit 1, Vol 2, Tab 1.18, Statement - PO M Reeby (20.06.24)

⁶⁴ Exhibit 1, Vol 2, Tab 1.19, Statement - PO G Gemmert (10.06.24)

⁶⁵ Exhibit 1, Vol 1, Tab 16, WAPOL Incident Report (LWP22051700342565)

⁶⁶ Exhibit 1, Vol 1, Tabs 17 & 18, ARP Reports and Occurrences Register (16.05.22)

⁶⁷ Exhibit 1, Vol 2, Tab 1.15, Statement - VSO R Ramakrishnan (28.06.24), paras 8-10

⁶⁸ Exhibit 1, Vol 2, Tab 1.15, Statement - VSO R Ramakrishnan (28.06.24), paras 11-13 and ts 28.08.24 (Ramakrishnan), p16

⁶⁹ Exhibit 1, Vol 1, Tab 9, Statement - Prisoner C (undated), paras 11-13

⁷⁰ Exhibit 1, Vol 2, Tab 1.15, Statement - VSO R Ramakrishnan (28.06.24), paras 11-13

⁷¹ Exhibit 1, Vol 1, Tabs 19.2, 19.14 & 19.19, Scene photos

⁷² Exhibit 1, Vol 1, Tab 23.1, Statement - Mr C Tester (14.08.24), paras 10-13 and ts 28.08.24 (Tester), pp6-7

32. Prisoner C says that when he and Prisoner MB went to the kitchen toilet, he saw Robert's legs protruding from under the cubicle door, and alerted prison staff.⁷³ VSO Ramakrishnan says that at about 4.00 pm, a prisoner (presumably Prisoner C) approached him and said someone was lying on the toilet floor. VSO Ramakrishnan says he rushed to the kitchen toilet, where he saw someone's feet under the cubicle door.⁷⁴
33. Although VSO Ramakrishnan was only able to open the cubicle door a few centimetres, he was able to confirm that Robert was lying, unresponsive, face down on the cubicle floor, with his body obstructing the door. VSO Ramakrishnan called out to Robert and when there was no response, he made a Code Red medical emergency call (Code Red) using his prison radio to alert other prison staff to the incident.⁷⁵
34. Vocational Support Officer Christopher Bangs (VSO Bangs) responded to the Code Red and went to the kitchen toilet. He saw Robert's legs under the cubicle door, but as the gap under the door was less than 15 cm, it was not possible to drag Robert out under the door. VSO Bangs and Prisoner C climbed over the cubicle door, and they and others removed Robert from the cubicle. Prisoner C says as he was lifting Robert, he noticed a "*dent*" on Robert's head, and that there was a metal tap "*near where (Robert) was*". It appears that Robert struck his head on the tap as he collapsed.^{76,77,78}
35. As Robert was being removed from the kitchen toilet, VSO Bangs says he noticed a plastic bag and a spray can of canola oil spray (which is used regularly in the ARP kitchen) in the cubicle.^{79,80,81}
36. It appears that in the period before he was discovered, Robert had sprayed the contents of the can of canola cooking oil spray into the plastic bag, before inhaling the propellants, namely butane and propane captured in the plastic bag.

⁷³ Exhibit 1, Vol 1, Tab 9, Statement - Prisoner C (undated), paras 12-22

⁷⁴ Exhibit 1, Vol 2, Tab 1.15, Statement - VSO R Ramakrishnan (28.06.24), paras 16-17 and ts 28.08.24 (Ramakrishnan), pp16-17

⁷⁵ Exhibit 1, Vol 2, Tab 1.15, Statement - VSO R Ramakrishnan (28.06.24), paras 17-19 and ts 28.08.24 (Ramakrishnan), p17

⁷⁶ Exhibit 1, Vol 1, Tab 9, Statement - Prisoner C (undated), paras 26-34

⁷⁷ Exhibit 1, Vol 2, Tab 1.17, Statement - VSO C Bangs (28.06.24), paras 11-20 and ts 28.08.24 (Bangs), pp9-11

⁷⁸ Exhibit 1, Vol 2, Tab 1.15, Statement - VSO R Ramakrishnan (28.06.24), paras 16-19

⁷⁹ Exhibit 1, Vol 2, Tab 1.17, Statement - VSO C Bangs (28.06.24), paras 11-20 and ts 28.08.24 (Bangs), p11

⁸⁰ Exhibit 1, Vol 2, Tab 1.15, Statement - VSO R Ramakrishnan (28.06.24), para 19

⁸¹ Exhibit 1, Vol 1, Tabs 19.7-19.10, Scene photos

37. After Robert was removed from the cubicle he was taken to the nearby changing area, where CPR was immediately commenced.^{82,83} Other staff, including the response team and a prison nurse attended the scene in response to the Code Red, and assisted with resuscitation efforts.
38. Meanwhile, other staff had contacted emergency services, and the first of two ambulances arrived at ARP at about 4.25 pm. Ambulance officers took over resuscitation efforts before transporting Robert to AHC by ambulance.^{84,85,86}
39. VSO Ramakrishnan says that when he touched Robert as he was being moved to the changing area Robert “*was warm*”, but that after Robert had been placed onto the ambulance stretcher, his hands were “*cold to touch*”.⁸⁷
40. On arrival at AHC, Robert’s previous opioid use was noted, and he was given intravenous naloxone “*with no effect*”.⁸⁸ Despite further resuscitation efforts at AHC, Robert could not be revived and he was declared deceased at 5.21 pm.^{89,90}

Management on the Terminally Ill list⁹¹

41. Prisoners with a terminal illness⁹² are managed in accordance with a policy known as *COPP 6.2 Prisoners with a Terminal Medical Condition*. Once a prisoner is identified as having a terminal illness, a note is made in the terminally ill module of the Total Offender Management Solutions (TOMS), the computer system the Department uses for prisoner management.
42. Prisoners are identified as Stage 1, 2, 3 or 4, on the basis of their expected lifespan. Stage 3 prisoners are expected to die within three months, whereas for Stage 4 prisoners, death is expected imminently.

⁸² Exhibit 1, Vol 2, Tab 1.17, Statement - VSO C Bangs (28.06.24), paras 19-21

⁸³ Exhibit 1, Vol 2, Tab 1.15, Statement - VSO R Ramakrishnan (28.06.24), paras 20-21

⁸⁴ Exhibit 1, Vol 2, Tab 1.17, Statement - VSO C Bangs (28.06.24), paras 19-21

⁸⁵ Exhibit 1, Vol 2, Tab 1.15, Statement - VSO R Ramakrishnan (28.06.24), paras 20-21

⁸⁶ Exhibit 1, Vol 1, Tabs 13.2-13.3, St John Ambulance Patient Care Records ALB21DC & ALB27DC (16.05.22)

⁸⁷ Exhibit 1, Vol 2, Tab 1.15, Statement - VSO R Ramakrishnan (28.06.24), paras 20-21 and ts 28.08.24 (Ramakrishnan), p17

⁸⁸ Exhibit 1, Vol 1, Tab 14, AHC Emergency Department Continuation Notes (16.05.22), p1

⁸⁹ Exhibit 1, Vol 1, Tab 3, WACHS Life Extinct Form (16.05.22)

⁹⁰ Exhibit 1, Vol 1, Tab 14, WACHS Death in Hospital Form (16.05.22)

⁹¹ Exhibit 1, Vol 2, Tab 1.20, Terminally Ill Health Advice (16.05.22)

⁹² One or more conditions that on their own or as a group, significantly increase the likelihood of a prisoner’s death

43. The Health Summary makes the following observation about Robert's management on the Terminally Ill register in TOMS:

(Robert) was placed onto the Register as Stage 4 (death is imminent), as soon as the advice of his collapse had been received; however, as the entry was completed, a further update was received that he had been declared deceased, at 17:25 on 16th May, 2022.⁹³

ISSUES RELATING TO PRESSURISED CANS

General

44. At the relevant time, Robert was one of about 25 prisoners who worked in the kitchen at ARP, helping to prepare over 1,000 meals daily, under the supervision of two Chef instructors. Although the Department was aware that Robert had a history of sniffing substances (including glue)⁹⁴ and that he had ingested hand sanitiser during a period of custody in 2019,⁹⁵ in his statement, the Security Manager at ARP, Mr Craig Tester (Officer Tester), says that prior to Robert's death "*there were no signs that Robert was actively abusing substances*".^{96,97,98}
45. Officer Tester explained that no background or screening checks are made before a prisoner is permitted to work in the ARP kitchen, and that there are about 460 prisoners at ARP, and many of them have a history of polysubstance use.⁹⁹
46. Officer Tester said ARP rarely screens prisoners when employing them to do prisoner jobs and that "*a prisoner's offending history is rarely a barrier to them being able to work*". Officer Tester also noted that ARP "*does not have (the) resources to conduct a complete screening of each prisoner's suitability to be employed within ARP*", and that prisoners are only screened if they "*might pose a threat to prison staff or other prisoners*".¹⁰⁰

⁹³ Exhibit 1, Vol 1, Tab 24, Health Services Summary (26.08.24), p10 and ts 28.08.24 (Gunson), pp32-33

⁹⁴ Exhibit 1, Vol 1, Tab 20, Echo medical records - Mr R Parnell, p1

⁹⁵ ts 28.08.24 (Gunson), p31

⁹⁶ Exhibit 1, Vol 2, Tab 1.26, Substance Use Test Results (16.08.19-16.05.22)

⁹⁷ Exhibit 1, Vol 1, Tab 23.1, Statement - Mr C Tester (14.08.24), para 32

⁹⁸ ts 28.08.24 (Bangs), pp6-7 and ts 28.08.24 (Tester), pp20-21

⁹⁹ Exhibit 1, Vol 1, Tab 23.1, Statement - Mr C Tester (14.08.24), paras 16-19 and ts 28.08.24 (Tester), pp21-22

¹⁰⁰ Exhibit 1, Vol 1, Tab 23.1, Statement - Mr C Tester (14.08.24), paras 20-23

47. As noted, at the time of Robert’s death, cans of canola oil spray were stored in the smaller kitchen storeroom, and freely accessible to prisoners working in the ARP kitchen.^{101,102} In his statement Officer Tester said that although use of the canola oil spray cans was not monitored, he had “*never heard of a prisoner misusing a canola oil spray can*”.¹⁰³
48. In passing I note that in his statement, Officer Tester also noted that “*there were no other types of aerosol spray cans in the prison, except for (the) ARP kitchen*”. However, at the inquest, Officer Tester clarified these remarks, and noted that aerosol cans of lubricant (e.g.: WD-40, CRC etc) are used in the prison workshop at ARP, but these products are securely stored, and only used by prisoners under supervision.¹⁰⁴
49. In an email to the Court on 29 August 2024, Mr Tan (counsel for the Department), indicated that in relation to all custodial facilities, his instructions were that:

The cooking oil aerosol cans are going to be removed with an end date of 30 September 2024 and replaced by hand pump bottles. Other essential aerosols (such as in the industries areas) will remain on site and secured. These will only be accessible by the staff and used by prisoners under their supervision and resecured when not in use. Aerosols are not sold in prison canteens.¹⁰⁵

50. In his statement, VSO Ramakrishnan said “*canola*” was an everyday item that all prisoners working in the kitchen had access to. He also said he had never seen or heard of prisoners using canola oil for any purpose other than cooking, and further that:

Prior to the incident, I had not heard or seen anything that would indicate that (Robert) was going to misuse the canola spray. None of the other prisoners raised any concerns with me that Robert was sniffing canola spray or any other substance.^{106,107}

¹⁰¹ Exhibit 1, Vol 2, Tab 1.15, Statement - VSO R Ramakrishnan (28.06.24), para 22 and ts 28.08.24 (Ramakrishnan), pp17-18

¹⁰² Exhibit 1, Vol 2, Tab 1.17, Statement - VSO C Bangs (28.06.24), para 25 and ts 28.08.24 (Bangs), p8

¹⁰³ Exhibit 1, Vol 1, Tab 23.1, Statement - Mr C Tester (14.08.24), paras 33-37 and ts 28.08.24 (Tester), pp22-23

¹⁰⁴ Exhibit 1, Vol 1, Tab 23.1, Statement - Mr C Tester (14.08.24), para 38 and ts 28.08.24 (Tester), p24

¹⁰⁵ Email - Mr CD Tan to Ms S Markham (29.08.24)

¹⁰⁶ Exhibit 1, Vol 2, Tab 1.15, Statement - VSO R Ramakrishnan (28.06.24), para 23

¹⁰⁷ See also: ts 28.08.24 (Ramakrishnan), p18 and ts 28.08.24 (Palmer), pp38-39

51. In his statement, VSO Bangs said the kitchen storerooms are left open, and prisoners working in the kitchen constantly access the storerooms to obtain various ingredients and items of equipment. VSO Bangs said he was not aware of there ever having been a concern about “*prisoners misusing canola spray*”, and that he had never heard of a prisoner using canola spray “*incorrectly*”. However, following Robert’s death, VSO Bangs said he became aware “*from other prisoners*” that: “*Robert was a substance sniffer and that previously a couple of prisoners had talked him out of using canola spray*”.^{108,109}
52. The can used by Robert was a can of Riviana non-stick canola oil spray, the contents of which are: “*Canola Oil (67%), Propellant (Butane, Propane), Emulsifier (Soy, Lecithin)*”.^{110,111,112}
53. The Mental Health Commission of Western Australia’s (MHC) website says this about butane:

Butane is a hydrocarbon and a highly flammable, colourless, odourless, easily liquefied gas. It is typically used as fuel for cigarette lighters and portable stoves, a propellant in aerosols, a heating fuel, a refrigerant, and in the manufacture of a wide range of products.¹¹³

54. The Health Summary makes the following comments about butane and propane toxicity:

[B]oth butane and propane quickly vaporise and displace oxygen in the lungs, leading to hypoxia, and potentially loss of consciousness; the same compounds can then pass via the blood stream to lipid-rich organs such as the brain and liver. Butane may be directly toxic to the brain and the myocardium (heart muscle), while propane may have an anaesthetic effect on the central nervous system. Importantly, butane also sensitizes the myocardium to the effects of catecholamines and predisposes the patient to a life-threatening arrhythmia, which can lead to cardiac arrest.¹¹⁴

¹⁰⁸ Exhibit 1, Vol 2, Tab 1.17, Statement - VSO C Bangs (28.06.24), paras 23-26

¹⁰⁹ See also: Exhibit 1, Vol 2, Tab 1.21, Email - Sen. Officer B Young to Security Team (16.05.24)

¹¹⁰ See: www.kayteringsupplies.com.au/documents/PDF/RCOS450_1.pdf

¹¹¹ Exhibit 1, Vol 1, Tabs 19.10-19.13, Scene photos

¹¹² Exhibit 1, Vol 1, Tab 22, Administrative Instruction 19/2024: Removal of Canola Cooking Spray (25.07.24)

¹¹³ See: vsu.mhc.wa.gov.au/about-vsua/types-of-volatile-substances/butane/

¹¹⁴ Exhibit 1, Vol 1, Tab 24, Health Services Summary (26.08.24), p11

55. The MHC website also notes that butane is one of the more harmful volatile substances to inhale, and that:

Butane gas can cause what is known as ‘**sudden sniffing death**’, which occurs as a result of cardiac arrhythmia or cardiac arrest (heart attack) if the person is stressed or does heavy exercise during or soon after using. Butane sensitises the heart to the effects of adrenalin to the point where sudden exercise or alarm can cause a cardiac arrest.¹¹⁵

56. On 17 May 2022 (i.e.: the day after Robert’s death) cans of canola oil spray were removed from ARP and replaced by “*canola oil and a brush, as well as pump sprayer bottles*”.^{116,117,118,119} At the inquest, VSO Bangs said that the removal of cans of canola oil spray had created no practical issues for the kitchen at ARP.¹²⁰
57. I was therefore very surprised to learn that (for reasons which were not explained) cans of canola oil spray were reintroduced at ARP sometime after April 2024, on the basis that “*ARP believed there was sufficient controls in place*”. I note that when the cans of canola oil spray were reintroduced at ARP, they were “*kept securely locked*” and could only be used by prisoners being supervised by a “*VSO Chef Instructor*”.^{121,122,123}
58. Following a “*further assessment*” cans of canola oil spray were again removed from ARP and securely disposed of.¹²⁴ On 25 July 2024, the Acting Superintendent of ARP issued a notice which provided that:

Effective immediately Canola Cooking Spray or any similar product is to be removed, this is in line with Maximum security standards as a result of a recent DIC (death in custody). Under Chem Alert risk assessment these sprays are reported within the hazard statement to be extremely flammable aerosol additional as a pressurized container may burst if heated with potential to be used as an explosive, or in the prison environment a weapon (flame blow torch).¹²⁵ [Original emphasis]

¹¹⁵ See: vsu.mhc.wa.gov.au/about-vsuh/types-of-volatile-substances/butane/, Original emphasis maintained

¹¹⁶ Exhibit 1, Vol 1, Tab 23.1, Statement - Mr C Tester (14.08.24), paras 39-44

¹¹⁷ Exhibit 1, Vol 2, Tab 1.15, Statement - VSO R Ramakrishnan (28.06.24), para 24

¹¹⁸ Exhibit 1, Vol 1, Tabs 23.4-23.7, Emails - ARP (17.05.22 & 19.05.22)

¹¹⁹ See also: Email - Mr CD Tan to Ms S Markham (19.08.24)

¹²⁰ ts 28.08.24 (Bangs), p14

¹²¹ Exhibit 1, Vol 1, Tab 23.1, Statement - Mr C Tester (14.08.24), paras 39-44

¹²² Exhibit 1, Vol 2, Tab 1.15, Statement - VSO R Ramakrishnan (28.06.24), para 24

¹²³ See also: Email - Mr CD Tan to Ms S Markham (19.08.24) and ts 28.08.24 (Bangs), p13

¹²⁴ Exhibit 1, Vol 1, Tab 23.1, Statement - Mr C Tester (14.08.24), para 43

¹²⁵ Exhibit 1, Vol 1, Tab 22, Administrative Instruction 19/2024: Removal of Canola Cooking Spray (25.07.24)

59. Given the prevalence of “*sniffing*” of volatile substances in the general community, it seems sensible to conclude that at least some people (such as Robert) may be admitted to prison with this habit. Further, as Robert’s death starkly demonstrates, inhaling butane and/or propane is a foolhardy and highly dangerous activity.
60. Although there is no evidence before the Court that the practice of sniffing propellants from aerosol cans within prisons is common, the fact that Robert was able to do so while he was at ARP is of grave concern. Given the serious risks attached to the sniffing of aerosol propellants, it is my view that every effort must be made to ensure that access to aerosol cans by prisoners is severely restricted.
61. I therefore note with approval that on 26 August 2024, the Commissioner of Corrective Services issued a Commissioner’s Broadcast about the use of aerosols within custodial facilities (the Broadcast), the text of which is as follows:¹²⁶

This Broadcast is to advise of a change of practice regarding the use of aerosols in our custodial settings. These products including air freshener, deodorant, pest control, hair spray, cooking oil spray, spray paint and the like are inherently poisonous and can be dangerous when used incorrectly. Therefore, the use of aerosols in our custodial settings must be closely controlled.

To mitigate the risk, all Superintendents are required to discontinue the use of aerosol cooking oil and any other aerosol cans that prisoners have direct access to and can be misused causing harm to themselves and or others. I authorise the use of plastic spray bottles instead for cooking oil and expect that **all facilities will move towards discontinuing aerosol oil by 30 September 2024.**

Aerosol use that is necessary in areas such as prison industries and for controlling pests, etc., must be kept in a secure location that is always only accessible by staff, and may only be used by prisoners under strict conditions and staff supervision. We need to work together to protect everyone in our facilities, and I would appreciate your cooperation.¹²⁷ [Original emphasis]

¹²⁶ ts 28.08.24 (Palmer), pp39-40

¹²⁷ Exhibit 1, Vol 1, Tab 25, Commissioner’s Broadcast - Use of aerosols in custodial facilities (22.08.24)

62. Having carefully considered the matter, I am satisfied that the Broadcast satisfactorily addresses the hazards posed by the sniffing of propellants in aerosol cans by prisoners. However, those hazards were made patently obvious by Robert's death on 16 May 2022. In my view, the fact it has taken the Department over two years to address this issue is utterly regrettable.
63. As noted, with respect to aerosol cooking oil, the Broadcast states that "*all facilities will move towards discontinuing aerosol oil by 30 September 2024*". However, no date is specifically provided for the discontinuance of other aerosol cans prisoners may have direct access to. At the inquest, I indicated that this was probably an inadvertent drafting error, and that the intent of the Broadcast was presumably that these products would also be discontinued by 30 September 2024.^{128,129}
64. In an email to the Court dated 29 August 2024, Mr Tan confirmed that "*other aerosol cans that prisoners have direct access to and can be misused causing harm to themselves and or others*" are also to be discontinued by 30 September 2024.¹³⁰
65. For the sake of completeness, I note that sometime in 2024, the cubicle door in the kitchen toilet was fitted with "*quick remove slidable hinges*", which enable the door to be removed in an emergency.^{131,132}
66. Whilst this is a welcome development, I note that the evidence before the Court is that it only took between 40 - 60 seconds to remove Robert from the toilet cubicle, and that CPR was commenced immediately thereafter. There is no evidence that this brief delay had any impact on Robert's clinical journey.^{133,134}

¹²⁸ Exhibit 1, Vol 1, Tab 25, Commissioner's Broadcast - Use of aerosols in custodial facilities (22.08.24)

¹²⁹ ts 28.08.24 (Tester), pp23-24 and ts 28.08.24 (Palmer), p40

¹³⁰ Email - Mr CD Tan to Ms S Markham (29.08.24)

¹³¹ Exhibit 1, Vol 2, Tab 1.22, Emails between Ms T Palmer and Asst. Supt. Operations C Tester (27.05.24)

¹³² ts 28.08.24 (Tester), pp24-25

¹³³ Exhibit 1, Vol 2, Tab 1.15, Statement - VSO R Ramakrishnan (28.06.24), para 19

¹³⁴ Exhibit 1, Vol 2, Tab 1.17, Statement - VSO C Bangs (28.06.24), para 18

CAUSE AND MANNER OF DEATH^{135,136,137,138,139}

67. A forensic pathologist, Dr Reimar Junckerstorff (Dr Junckerstorff) carried out a **post mortem** examination of Robert's body at the State Mortuary on 24 May 2022. Dr Junckerstorff noted abrasions to Robert's forehead, chest, limbs and back, and evidence of resuscitation. Microscopic examination of Robert's heart showed no significant abnormality, and apart from signs of chronic inflammation in the liver, Robert's other organs showed no significant abnormality.
68. Specialist examination of Robert's brain showed mild, non-specific changes, but there was no meningitis or encephalitis. No viral infection of the heart, lungs, brain or spinal fluid was detected, but Robert tested positive for the COVID-19 virus. Biochemical testing showed possible slight impairment of his kidneys, but tests showed Robert's long term control of blood glucose levels was satisfactory.
69. Robert's methaemoglobin and carboxyhaemoglobin levels were normal, and toxicological analysis detected butane and propane in Robert's blood, and left lung. Naloxone was also "*indicated*", but alcohol, cannabinoids, and other common drugs were not detected. In his post mortem report, Dr Junckerstorff noted that aerosol propellants such as propane and butane "*may cause respiratory depression, seizures, an abnormal beating rhythm of the heart (cardiac arrhythmia) and sudden death*".¹⁴⁰
70. Following the **post mortem** examination, Dr Junckerstorff expressed the opinion that the cause of Robert's death was butane and propane toxicity.
71. I respectfully adopt Dr Junckerstorff's opinion as my finding as to the cause of Robert's death. Further, as there is no evidence he inhaled butane/propane from the can of canola cooking spray for anything other than "*recreational*" purposes, I find death occurred by way of accident.

¹³⁵ Exhibit 1, Vol 1, Tab 5.1, Supplementary Post Mortem Report (09.10.23)

¹³⁶ Exhibit 1, Vol 1, Tab 5.2, Post Mortem Report (24.05.22)

¹³⁷ Exhibit 1, Vol 1, Tab 5.3, Interim Post Mortem Report (24.05.22)

¹³⁸ Exhibit 1, Vol 1, Tab 6.2, Final Toxicology Report (14.09.23)

¹³⁹ Exhibit 1, Vol 1, Tab 7, Neuropathology Report (30.05.22)

¹⁴⁰ Exhibit 1, Vol 1, Tab 5.1, Supplementary Post Mortem Report (09.10.23), p2

QUALITY OF SUPERVISION, TREATMENT AND CARE

72. The available evidence establishes that during his incarceration, Robert maintained regular contact with his family, and interacted appropriately with his peers. He had no chronic illnesses or major medical conditions, and he never displayed any signs of mental health issues.
73. Robert was employed as a cleaner in the ARP kitchen, and it was there that he sourced a can of canola oil spray, which he was able to take to the kitchen toilet with a plastic bag. While in the toilet cubicle, Robert was able to concentrate the can's contents into the plastic bag, before inhaling the resultant propellants in order to obtain a "high".
74. As I have noted, a recently published Commissioner's Broadcast imposes appropriate controls on the use of aerosols within custodial facilities. Significantly, the use of aerosol cooking spray is to be discontinued, along with "*any other aerosol cans that prisoners have direct access to and can be misused causing harm to themselves and or others*".¹⁴¹
75. After carefully considering the available evidence, I am satisfied that the standard of treatment and care Robert received during the time he was incarcerated was appropriate, and that his medical care was commensurate with community standards.¹⁴²
76. However, on at least one occasion (and on the evidence of Prisoner A, possibly on other occasions),^{143,144} Robert was able to inhale propellants from a can of canola cooking oil spray which he had removed from a storeroom in the prison kitchen.
77. Even accepting the fact that the risk that prisoners might inhale propellants from cans of cooking oil spray was not appreciated at the relevant time, in my view the standard of supervision Robert received, at least on 16 May 2022, was sub-standard.

¹⁴¹ Exhibit 1, Vol 1, Tab 25, Commissioner's Broadcast - Use of aerosols in custodial facilities (22.08.24)

¹⁴² ts 28.08.24 (Gunson), pp27-28 & 33

¹⁴³ Exhibit 1, Vol 1, Tab 10, Statement - Prisoner A (undated), paras 11-15

¹⁴⁴ See also: Exhibit 1, Vol 2, Tab 1.17, Statement - VSO C Bangs (28.06.24), paras 23-26

CONCLUSION

78. Robert was only 29-years of age when he died from butane and propane toxicity, after deliberately inhaling the propellants of a can of canola oil spray using a plastic bag. As there was no evidence before the Court that Robert was inhaling the can's propellants for anything other than "*recreational*" purposes, I found that Robert's death occurred by way of accident.
79. Robert's tragic death highlights the grave risks which are associated with the deliberate inhalation of the propellants in pressurised aerosol cans, especially butane.
80. I note with approval that a Commissioner's Broadcast published on 26 August 2024, discontinues the use of aerosol cooking spray, and any other aerosol cans which prisoners have direct access to and which may be misused to cause harm to the prisoner, or to others.
81. In my view, the terms of the Commissioner's Broadcast make it unnecessary for me to make a recommendation with similar effect.
82. Finally, as I did at the conclusion of the inquest, I wish to convey to Robert's family and loved ones, on behalf of the Court, my very sincere condolences for their loss.

MAG Jenkin
Coroner
5 September 2024