Coroners Act 1996
[Section 26(1)]

Western *Australia*

RECORD OF INVESTIGATION INTO DEATH

Ref: 9/17

I, Sarah Helen Linton, Coroner, having investigated the death of ***Troy William MURRAY*** *with an inquest held at the* ***Perth Coroner's Court, Court 51, CLC Building, 501 Hay Street, Perth*** *on* ***20 February 2017*** *find that the identity of the deceased person was* ***Troy William MURRAY*** *and that death occurred on* ***11 March 2012*** *at* ***Unit 2, 35 Chichester Way, Nollamara****, as a result of* ***ligature compression of the neck (hanging)*** *in the following circumstances:*

Counsel Appearing:

Ms A Sukoski assisting the Coroner
Mr G Huggins appearing on behalf of the Commissioner of Police.

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INTRODUCTION

1. Troy William Murray (the deceased) died on 11 March 2012 at his home in Nollamara. Shortly after his body was discovered, some police officers who were in the street for another matter were alerted to what had occurred. They tried to resuscitate the deceased, without success. It appeared to the attending police officers that the deceased had died from hanging. An investigation into his death then commenced.

2. Initially, the death was assessed by police investigators as possibly suspicious due to a number of factors. These were primarily the concern that the ligature found at the scene was inconsistent with the marks around the deceased's neck and also concerns about the behaviour of the deceased's roommate prior to, and following, the death of the deceased.

3. Following investigations by the Major Crime Squad and a post mortem examination, the initial concerns that the circumstances were suspicious were apparently allayed and the file was transferred to the Coronial Investigation Unit for completion of a report for the coroner. After reviewing the completed report, a coroner approved the matter for inquest on 13 March 2013 pursuant to s 22(2) of the *Coroners Act 1996* (WA) on the grounds that it was desirable to explore further the circumstances of the death and some of the investigation processes.

4. I held an inquest at the Perth Coroner's Court on 20 February 2017.

5. The documentary evidence comprised a report and volume of related materials prepared by the Western Australia Police.[1] Various police officers involved in the investigation, as well as the forensic pathologist, Dr Judith McCreath, also gave oral evidence at the inquest.

6. At the conclusion of the inquest I was satisfied that the deceased hanged himself with a ligature, which caused his death. However, an issue did arise about the procedures for recording post mortem examinations, which I will address later in this finding.

[1] Exhibit 1.

THE DECEASED

7. The deceased was born on 3 July 1977 in a small town in New South Wales. He reportedly had a difficult childhood and began using drugs at the age of 14 years. As an adult he moved with his partner, Tracey Considine, to Perth in approximately 2001. In 2002 Ms Considine became pregnant with their son. They bought a unit together and the deceased was working hard as a brick layer. He had previously been a regular recreational drug user, mainly using cannabis and occasionally speed, but he had stopped using speed (amphetamine) and was only using cannabis at this time. Ms Considine recalls it was a happy time in their lives, living with their young baby in their own home.[2]

8. The deceased's relationship with Ms Considine ended in October 2004 when the deceased commenced a brief relationship with another woman. There were some custody issues between the deceased and Ms Considine in relation to their son for approximately 12 months but then the deceased and Ms Considine resolved their issues and became close friends.[3]

9. Ms Considine noticed that the deceased's next relationship had brought about a change in the deceased. In particular, his use of speed increased and he came into contact with the police for the first time. He continued to struggle with his use of speed even after the relationship ended, and he also had issues with alcohol abuse. He continued to use cannabis at the same time, but Ms Considine did not think it had a similarly deleterious effect upon him as the speed and alcohol.[4]

10. In 2008 the deceased started a new relationship with a woman called Alison Barden. The couple met through work around February 2008. Despite the relationship being loving and supportive, the deceased's general health deteriorated due to his continued illicit drug use, predominantly speed. His new partner was aware that the deceased injected speed intravenously into his arms and was also a heavy cannabis smoker. The deceased attempted rehabilitation unsuccessfully on several occasions.[5]

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[2] Exhibit 1, Tab 8 and Tab 10.
[3] Exhibit 1, Tab 8.
[4] Exhibit 1, Tab 8.
[5] Exhibit 1, Tab 8 and Tab 10.

11. Approximately two years prior to his death the deceased learned how to manufacture his own amphetamines/speed. As far as Ms Considine was aware the deceased never made speed to sell or supply to others, but made it to sustain his own drug habit. He acknowledged to Ms Considine that knowing how to make his own speed was "the worst thing in the world for him"[6] as it gave him an endless supply of the drug.[7]

12. During the time that Ms Considine and the deceased were in a relationship she recalls the deceased attempted suicide on one occasion by injecting himself with some chemicals.[8] Over the years as his drug use continued, his mental wellbeing deteriorated and he made further suicide attempts. Ms Considine is aware that the deceased attempted to hang himself at a family wedding in July 2011 but was saved by his brother.[9] Ms Barden was also at the wedding and recalls the deceased was drunk at the time and the incident followed an argument with the deceased's brother over the deceased's poor behaviour at the wedding.[10] Ms Barden recalls another time when the deceased put a hair dryer in a bath of water in an attempt to electrocute himself.[11] Ms Barden also recalls the deceased attempted to hang himself with a belt at Ms Considine's former home in Yokine.[12] He also attempted to harm himself by cutting his forearms on more than one occasion.[13]

13. In August 2011 the deceased was involved in an explosion of a clandestine drug laboratory at a house in Balga. He was badly burned in the explosion and received superficial burns to 40% of his body. The deceased was placed in an induced coma for three days in the Royal Perth Hospital burns unit and hospitalised for four weeks. He was apparently later charged with attempting to manufacture drugs in relation to the explosion.[14] Afterwards the deceased had scars to his arms and legs and Ms Barden believes he never recovered mentally from the incident. He was prescribed Serepax, Valium, Tramadol and Pristiq while recovering.[15]

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[6] Exhibit 1, Tab 8 [26].
[7] Exhibit 1, Tab 8.
[88] Exhibit 1, Tab 8 [29].
[9] Exhibit 1, Tab 8 [30].
[10] Exhibit 1, Tab 10 [164] – [166].
[11] Exhibit 1, Tab 10 [150].
[12] Exhibit 1, Tab 10 [162].
[13] Exhibit 1, Tab 10 [168] – [169] and Tab 11 [9].
[14] Exhibit 1, Tab 8 [32] – [35] and Tab 10 and Tab 18.
[15] Exhibit 1, Tab 10 [52] – [58] and Tab 18.

14. During September and October 2011 Ms Barden and the deceased spent three weeks away in Carnarvon staying with friends and at a caravan park.[16]

15. In November 2011 the deceased and Ms Barden were living with Ms Considine as they were otherwise homeless. On 25 November 2011 Ms Considine came home and found the deceased drinking alcohol in the back shed. She confronted him about his drinking and told him that he could only live with her if he abstained from alcohol. A few minutes later Ms Considine heard the deceased's partner screaming inside the house. She went into the kitchen and found the deceased had slashed his wrist with a Stanley knife. Ms Considine wrapped a towel around his wrist and called emergency services. The deceased was taken to hospital for suturing of his injury.[17] After that time Ms Considine asked the deceased to promise that he would not attempt suicide again, but he responded that he could not make a promise that he might not be able to keep.[18]

16. On 26 November 2011 the deceased presented to Rockingham Kwinana Hospital requesting a mental health review and pain killers. Police were called by hospital security as the deceased was found trying to enter other hospital areas.[19]

17. On 2 January 2012 the deceased was taken by ambulance to Sir Charles Gairdner Hospital Emergency Department because he was behaving bizarrely after taking speed and a large number of prescription drugs. He was diagnosed with amphetamine addiction and admitted for observation to a ward.[20]

18. In the early part of 2012, the deceased and Ms Barden moved in with Corey Foster, who lived in a unit just down the road from Ms Considine in Nollamara. Mr Foster was also a drug user, and like the deceased, used speed and cannabis. The deceased would still spend a lot of time at Ms Considine's house.[21]

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[16] Exhibit 1, Tab 10.
[17] Exhibit 1, Tab 8 [38] – [44] and Tab 18.
[18] Exhibit 1, Tab 8 [45] – [46].
[19] Exhibit 1, Tab 18, Emergency Medicine Summary 26.11.2011.
[20] Exhibit 1, Tab 18, Emergency Medicine Summary 2.1.2012.
[21] Exhibit 1, Tab 8 [47] – [48].

19. Throughout January 2012 the deceased received ongoing treatment from his doctor for a foot infection.[22]

20. Around this time the deceased found out that his partner had been unfaithful to him in the past.[23] Ms Barden initially denied it had occurred but admitted it when the deceased confronted her about it on Monday, 5 March 2012.[24]

21. On Tuesday 6 March 2012 the deceased saw his doctor for the last time. He described feeling stressed and depressed. He was given prescriptions for 25 Serepax tablets, 50 Valium tablets and 100 Xanax tablets.[25] Ms Barden attended the appointment with the deceased and recalls Dr Dicamillo told the deceased the Xanax tablets were a lot stronger than usual but the deceased wanted them prescribed as he wasn't sleeping and had had them recommended to him by a friend. The deceased apparently got the prescriptions filled and when he returned home he mixed the Valium and Xanax tablets together in a large Xanax bottle.[26]

22. That afternoon the deceased was drinking with Mr Foster and Ms Barden. Mr Foster told Ms Barden he had seen the deceased use the bottle of Xanax and Valium tablets and pour numerous tablets into his mouth. He was uncertain how many tablets the deceased had taken and was concerned that the deceased might overdose. The deceased then took some speed and he became confused and unco-ordinated and appeared paranoid. He fell on his head a few times during the night. Ms Barden did not think the deceased was attempting suicide at that time, but were concerned that the combination of drugs might harm him nonetheless.[27]

23. On Wednesday, 7 March 2012 the deceased confronted Ms Barden again about her infidelity and he became physically aggressive towards her. She describes him as "just off his head"[28] and she was scared of what he could do.[29] Ms Barden spent the night at Ms Considine's house as she didn't feel safe with the

[22] Exhibit 1, Tab 18.
[23] Exhibit 1, Tab 10 [81] – [102].
[24] Exhibit 1, Tab 10 [100].
[25] Exhibit 1, Tab 18.
[26] Exhibit 1, Tab 10 [62] – [65].
[27] Exhibit 1, Tab 10 [66] – [76].
[28] Exhibit 1, Tab 10 [107].
[29] Exhibit 1, Tab 10 [104] – [108].

deceased. The following day the deceased invited Ms Barden over for dinner and she went to the house and stayed the night with him. He drank alcohol and consumed Xanax tablets during the night. The following morning the deceased became angry again. Ms Barden ended up leaving the house in her pyjamas and was later picked up by a friend. She didn't say goodbye to the deceased before leaving because he was so angry. She describes him as not being the person she knew and loved and thought the Xanax tablets were responsible.[30]

24. After Ms Barden left she continued to exchange text messages with the deceased and speaking on the telephone. Ms Barden indicated she wanted to go back to England for a time and the deceased told her that he was going to go back to drug rehabilitation.[31]

25. On Saturday, 10 March 2012 the deceased allegedly assaulted Mr Foster at about 10.00 am in the morning. Later that day the deceased apparently apologised to Mr Foster and Mr Foster accepted his apology.[32]

26. The deceased was still deeply affected by the infidelity and that night he took a large quantity of Xanax tablets, which he was prescribed by his doctor,[33] with alcohol. Ms Considine noted that the combination of prescription drugs and alcohol had a bad effect on the deceased and his behaviour that night was very erratic.[34]

EVENTS ON 11 MARCH 2012

27. On the day of his death the deceased was still sharing the unit in Nollamara with Mr Foster and they were back on good terms. Ms Barden was no longer living at the house.

28. Ms Barden spoke to the deceased on the telephone sometime during the morning of Sunday, 11 March 2012. They only had a short conversation. The deceased told her that he was walking up

[30] Exhibit 1, Tab 10 [123].
[31] Exhibit 1, Tab 10 [124] – [131].
[32] Exhibit 1, Tab 28.
[33] Exhibit 1, Tab 18.
[34] Exhibit 1, Tab 8 [51] – [54].

the road to Ms Considine's house and "wanted to get off his head as much as he could."[35]

29. That evening the deceased was at the home of Ms Considine. He spent time socialising with Ms Considine and another friend, Ryan Wighton. The deceased and Mr Wighton drank a carton of beer between them. Later that afternoon the deceased and Mr Wighton went to a house in Koondoola and purchased a quantity of speed for $500. They then returned to Ms Considine's house with the intention of sharing the drug between them.[36]

30. A short while after returning to Ms Considine's house the deceased went missing. Ms Considine and Mr Wighton went to the deceased's house to look for him. They arrived at approximately 7.30 pm and found the deceased at home. It appears that the deceased had injected all of the amphetamines by this time (including Mr Wighton's share), which led to an argument between the deceased and Mr Wighton. Mr Foster had returned home during the argument. Mr Wighton and Ms Considine then left the deceased's unit and returned to Ms Considine's house.[37]

31. Mr Foster gave an account to police that after Mr Wighton and Ms Considine left the deceased and Mr Foster smoked some cannabis together. The deceased then said words to the effect of "I'll catch you later" and Mr Foster thought the deceased left the house. About 20 minutes later Mr Foster went to have a shower and noticed the deceased's legs on the ground. He went to investigate and found the deceased hanging outside. Mr Foster got some scissors and cut the deceased down and called out to his neighbours for help.[38]

32. The deceased's neighbours, John Jones and Chantelle Henry, were home that day. They recalled Mr Foster came over to their house sometime in the evening and was talking about bruises and had a bloody sore on his leg. Mr Foster asked them if they had seen the deceased. They indicated they hadn't and then Mr Foster went home. Mr Jones found some antiseptic and Panadol and took them to Mr Foster next door. Mr Foster was

[35] Exhibit 1, Tab 10 [133].
[36] Exhibit 1, Tab 8.
[37] Exhibit 1, Tab 8.
[38] Exhibit 1, Tab 28.

sitting on the couch watching television and he didn't get up while Mr Jones was there. Mr Jones then returned home. He estimated the time was 8.30 pm.[39]

33. Not long afterwards Mr Jones and Ms Henry heard shouting coming from the house next door. It sounded like Mr Foster. Mr Jones had not heard any sounds of arguing prior to hearing Mr Foster calling out.[40] Mr Jones went next door and found Mr Foster standing at the front door. Mr Foster cried out, "He's hung himself." As he said this he was pointing towards the laundry. Mr Jones went to walk inside the house to check on the deceased and while he did so Mr Foster got on his bicycle and rode up the driveway while still crying and shouting.[41]

34. Mr Jones walked into the house and walked through the laundry into the yard. He saw the deceased lying on the ground on his left hand side with his feet closest to the laundry door and his head towards the gate. He noticed the deceased's face was blue and purple. He also noticed an orange ribbon, which might have been a sarong, hanging from the gutter above the deceased. Shortly afterwards Mr Jones' partner came to the house. She spoke to Mr Foster at the front door and he told Ms Henry that he thought the deceased had hung himself. She ran home and got her mobile telephone and called to request an ambulance. While she was doing this Mr Foster said that he needed to go and get Ms Considine. He then left the house.[42]

35. Ms Henry then joined Mr Jones, who was with the deceased, and following the direction of the operator, Ms Henry started to attempt resuscitation while Mr Jones ran out the front to try and get help.[43] Mr Jones recalls seeing a police car driving past, so he waved it down and told the police he needed assistance. The police officers entered the house and took over CPR until the ambulance arrived.[44] Mr Jones and Ms Henry's recall of events does not exactly match that of Ms Considine and the two police officers who were first on the scene.

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[39] Exhibit 1, Tab 6 [5] – [14].
[40] Exhibit 1, Tab 6 [44].
[41] Exhibit 1, Tab 6 [15] – [22].
[42] Exhibit 1, Tab 5 and Tab 6.
[43] Exhibit 1, Tab 6 [23] – [33].
[44] Exhibit 1, Tab 6 [34] – [39].

36. According to Ms Considine, Mr Foster turned up at their house in a distressed and upset state. He said words to the effect of, "He's done it" or "He's finally done it." She asked him what he meant and Mr Foster told her that the deceased had hanged himself. Ms Considine then ran down towards the deceased's unit. As she was moving down the street she saw some police officers doing paperwork inside a parked police car. She approached the two officers, First Class Constable Lendich and Constable Smith and told them that the deceased had hanged himself. They asked where he was and Ms Considine asked them to follow her.[45]

37. Ms Considine and Constables Lendich and Smith entered the unit and found the deceased lying on the pavement in the small yard outside the laundry door. Constable Lendich noticed the deceased's head looked blue in colour and he appeared to have died. He also observed a multi-coloured large cloth tied to a water pipe near the deceased's head but did not see anything wrapped around the deceased's neck when he observed him. Constable Lendich began resuscitation attempts while Constable Smith notified police communications of the incident. While this was occurring Ms Considine was joined by Ms Henry. After the police officers had been providing CPR for approximately five minutes ambulance officers attended the scene and took over resuscitation attempts.[46]

38. The St John Ambulance patient care record shows the initial call was received at 8.17 pm and the ambulance officers arrived at the scene at 8.28 pm. They attempted full resuscitation until 8.53 pm with nil response. At that time the deceased was certified life extinct.[47]

INITIAL SCENE INVESTIGATION

39. Two detectives from Mirrabooka Detectives Office attended the deceased's home at approximately 11.20 pm. They saw the deceased lying on his back in the courtyard. They could see a visible ligature mark on his neck and they examined the material hanging on the downpipe that was thought to have been used by the deceased as a ligature. They noticed the material appeared to

[45] Exhibit 1, Tab 8 [62] – [73] and Tab 12.
[46] Exhibit 1, Tab 12.
[47] Exhibit 1, Tab 5 and Tab 19.

have been cut or torn towards the bottom and the material didn't seem to obviously match the mark of the ligature.[48] They were also informed that the deceased's flatmate, Mr Foster, had left the house. Dried blood was found by police at a number of locations within the unit and there was a dent in a bedroom door. Given these circumstances, one of the detectives contacted Major Crime Squad and the deceased's residence was declared a protected forensic area.[49]

40. Major Crime Squad investigators attended the deceased's home at 3.30 am. They conducted a briefing with Mirrabooka detectives. The two Mirrabooka detectives then left the house and went looking for Mr Foster.

41. After leaving Ms Considine's house Mr Foster had gone next to the home of an acquaintance, Ms Shane Yorkshire, on his bicycle. He was in a dishevelled state and had obvious injuries. He spoke to one of the occupants of the house and asked them to ring the deceased's partner, Ms Barden, to tell her that the deceased had hung himself at his house. Mr Foster held out a piece of paper with Ms Barden's phone number on it and told them that the deceased had hung himself and Mr Foster had cut him down with a pair of scissors and tried to revive him. While this was occurring they heard two ambulances drive past and Mr Foster said "I can't deal with this I'm off."[50] He dropped the bicycle and walked towards Mirrabooka High School. Ms Yorkshire then rang Ms Barden and notified her of what she had been told.[51] It seems Mr Foster then went back to Ms Considine's house.

42. The Mirrabooka detectives located Mr Foster asleep in the lounge room at Ms Considine's house at 3.40 am. They initially arrested him for suspicion of murdering the deceased and took him to Mirrabooka police station. He was distressed and appeared drug affected at the time of apprehension so he was not interviewed straight away.[52]

[48] Exhibit 1, Tab 13.
[49] Exhibit 1, Tab 13 and Tab 14.
[50] Exhibit 1, Tab 9 [47].
[51] Exhibit 1, Tab 9.
[52] T 5 – 6; Exhibit 1, Tab 13 and Tab 20.

43. Meanwhile forensic officers attended the deceased's home and the on-duty forensic pathologist, Dr Judith McCreath was contacted at 4.00 am and requested to attend.[53]

44. Dr McCreath attended the scene where the deceased's body was discovered at 4.25 am on 12 March 2012. Dr McCreath was informed on arrival that the deceased had a history of depression but also a history of recent altercations and had been found with a ligature mark around his neck that was inconsistent with the apparent ligature present. Dr McCreath had an opportunity to view the deceased's body, as well as the general area where he was found. She observed some lividity and rigor. The eyes were congested but no petechial haemorrhages were seen by Dr McCreath. Dr McCreath observed no obvious injuries to the deceased on his front or back. The sarong was still tied to the guttering downpipe and the other section of sarong, reportedly cut from around the deceased's neck, was present under the head of the deceased. Dr McCreath informed Detective Johnson at the scene that the mark on the deceased's neck appeared inconsistent with the ligature as presented (namely the sarong) but the mark itself could be consistent with hanging. She also noted that there were no obvious signs of injury.[54]

45. Dr McCreath explained at the inquest that, looking at the sarong, she would have expected a more broad mark to be present than what was seen on the deceased, which is why she told the police she did not think it was consistent with the ligature mark. However, Dr McCreath also emphasised that a broad, soft ligature can produce marks like that in some circumstances, such as if the soft bit of material is under strain and has lines of tension, although it is not what a forensic pathologist would generally expect to see.[55]

46. Significantly, after the deceased's body was moved, a short length of black cord was located in the immediate proximity of the deceased, which was more consistent with the mark visible around the deceased's neck.[56] A forensic officer, First Class Constable Matthew Goadby, arrived to relieve the night shift

[53] Exhibit 1, Tab 16.
[54] Exhibit 1, Tab 16, Scene Report.
[55] T 13.
[56] T 5.

forensic team and saw the orange sarong still hanging and the piece of orange sarong on the ground. He also observed the piece of cord, which he described as a thin black piece of fabric on the ground, which appeared similar to a drawstring. These items were seized by forensic field operations staff.[57] The thinner black cord was not discovered while Dr McCreath was at the scene.[58]

POST-MORTEM EXAMINATION

47. A post mortem examination was performed by Dr McCreath on 16 March 2012. Because the circumstances of the death were thought to be suspicious, a number of police officers attended the post mortem examination, including Detective Senior Constable Russell from Major Crime Squad and Constable Goadby. Prior to the post mortem examination commencing Constable Goadby did something that, in his original statement, he described as a "ligature re-construction" [59] for Dr McCreath. Constable Goadby used a thin length of fabric and a sarong (consistent with what was found at the scene) to show Dr McCreath how they could be attached in a manner that could cause a ligature mark consistent with that found on the deceased.[60]

48. Dr McCreath recalls discussing the ligature and manipulating it with the police officers to see if it could cause the ligature mark seen on the deceased.[61] Dr McCreath gave evidence that she would normally make a note, either on paper or by dictaphone, of such events. However, given that in this case the police brought the items into the State Mortuary (rather than them coming with the body) and the event formed part of a general discussion with the police about the known circumstances (that is not always documented in full as it is not necessarily relevant), Dr McCreath believes she must have assumed that the police officers would document what was occurring.[62] Dr McCreath conceded that in retrospect she should have written down something of what occurred and that she was happy with what she had been shown,

[57] T 22; Exhibit 1, Tab 15.
[58] T 14.
[59] Exhibit 1, Tab 15 [25].
[60] Exhibit 1, Tab 15 [26].
[61] T 14.
[62] T 15.

consistent with her usual practice, but it just didn't occur to her on this occasion for the reasons explained above.[63]

49. In a report by Detective Senior Constable Russell from Major Crime Squad, he noted that Dr McCreath agreed to the reconstruction showing a consistency with the deceased and the circumstances of the death.[64]

50. The first stage of the post mortem examination is an external examination. Dr McCreath listed nine identifying marks and scars, including several tattoos. She referred to some linear scars on the wrists. She also listed 21 sites of possible injury beginning with a dried indentation of abrasion around the neck (discussed further below), which was prominent anteriorly and incomplete posteriorly. The rest of the areas refer to linear and scabbed abrasions on the right lower leg, scattered abrasions of the left calf, ankle and toes, abrasions to the left elbow and left hand, petechial haemorrhages in the left upper arm, an abrasion over the back, bruising over the left thigh and scabbed abrasions on the right forearm.[65] Dr McCreath explained in her evidence that quite a lot of these injuries were possibly quite minor, but they are all noted down in a case such as this.[66] Dr McCreath also noted quite extensive depigmentation of the skin on parts of the deceased's body, which she agreed may have related to the burns he sustained in the house explosion.[67]

51. As noted above, significantly in this case, Dr McCreath found an indented abrasion around the neck with bruising in the underlying tissue. Dr McCreath noted the presence of a 170 x 30 mm almost horizontal bruise over the anterior neck involving both left and right sternocleidomastoid muscles and anterior strap muscles at the level of the external indented abrasion. Dr McCreath also observed haemorrhage around the greater horn of the thyroid cartilage, which was fractured. This is a common feature in hanging deaths.[68] The hyoid bone was intact and the blood vessels were unremarkable.[69] Dr McCreath noted in her evidence that the deceased was a fairly big man, weighing 97 kg

[63] T 16.
[64] Exhibit 1, Tab 20.
[65] Exhibit 1, Tab 16.
[66] T 18.
[67] T 18.
[68] T 20.
[69] Exhibit 1, Tab 16 and Tab 20.

and 1.8 metres tall, so if he had fought someone trying to strangle him you would expect to see more injury to the neck than what was observed.[70]

52. Dr McCreath also found excessive fluid in the lungs (which is a common finding in hanging deaths) and narrowing of the coronary arteries (coronary artery atherosclerosis). There was 90% narrowing of the left anterior descending artery and left circumflex artery and 80% narrowing of the right coronary artery.[71]

53. Dr McCreath noted the deceased's eyes were congested. Earlier, she had noted in her scene report that the eyes were congested but no petechial haemorrhages were seen. Dr McCreath apparently told detectives that the lack of petechiae is consistent with a non-suspicious hanging death.[72] Dr McCreath agreed in her evidence that the presence of absence of petechiae can be affected by how quickly the person asphyxiates.[73]

54. Microscopic examination showed focal areas of haemorrhage in the soft tissues of the front of both elbows, over the back and in front of the thyroid cartilage.[74]

55. Neuropathological examination of the brain showed cerebral congestion.[75]

56. Toxicological analysis of the blood showed an elevated blood alcohol level of 0.106% and higher level in the urine of 0.163%. The presence of various drugs, including diazepam and its metabolite, other benzodiazepines, cannabis and its metabolite and methylamphetamine were also detected.[76] Dr McCreath agreed in her evidence that the level of methylamphetamine can vary in individuals but the amount found in the deceased's system was at a level that has been documented as causing death in some cases.[77] This would support the evidence given that the deceased had consumed a large amount of

[70] T 18.
[71] Exhibit 1, Tab 16.
[72] Exhibit 1, Tab 16 and Tab 20.
[73] T 17.
[74] Exhibit 1, Tab 16.
[75] Exhibit 1, Tab 16.4.
[76] Exhibit 1, Tab 16.3.
[77] T 19.

meythlamphetamine on the night (rather than sharing it with others, as was originally planned). Dr McCreath also agreed that the combination of alcohol, cannabis and methylamphetamine might well have affected the deceased's mental state in a negative way.[78]

57. At the conclusion of all investigations Dr McCreath formed the opinion the cause of death was due to ligature compression of the neck.

58. Dr McCreath explained at the inquest that she deliberately did not put the cause of death as *ligature compression of the neck (hanging)*, which is often the terminology used in such cases, as she wanted to leave it to the presiding coroner to determine the manner of death given some of the circumstances of the death. Dr McCreath confirmed that it was not that she thought the death did not occur as a result of hanging, but more that she wanted to leave it open to the coroner to reach a conclusion without prejudgment.[79]

FURTHER POLICE INVESTIGATION INTO THE DEATH

59. An examination of the deceased's home in Chichester Way, Nollamara did not reveal any evidence of forced entry, damage or signs of a struggle or fight. The scene did not suggest a third party was involved in the deceased's death; he had no injuries consistent with an assault or defensive injuries and there were no injuries consistent with the deceased being lifted into a hanging position. Neighbours were interviewed and did not indicate they had heard a fight or disturbance on the night of the incident.[80]

60. Mr Foster was interviewed by Detective Senior Constable Gazzone and Detective Sergeant Williams on 12 March 2012 at 2.10 pm. Mr Foster indicated that he had taken Valium and Xanax the day before but was not affected by drugs at the time of the interview. He willingly cooperated with answering the questions put to him by the detectives and tried to give an account of the events leading up to the deceased's death.

[78] T 19.
[79] T 16 – 17.
[80] Exhibit 1, Tab 20.1.

61. Mr Foster was asked about a cut on his lip and a swollen cut on his foot. He indicated that he had been in a fight on the Saturday with the deceased. Mr Foster said they had argued at his house at about 10.00 am in the morning because the deceased was angry as he thought Mr Foster had left him alone the night before. The deceased punched Mr Foster a few times. After the fight Mr Foster said he was upset. He went to Ms Considine's house and asked her to report it to police but he then left without waiting for the police to arrive and went to Ms Yorkshire's house. He later returned home and the deceased apologised and said he couldn't understand why he had assaulted Mr Foster.[81]

62. Mr Foster was asked about his recollection of events around the time of the deceased's death. He indicated that he was asleep most of the time. He was aware the deceased had been very upset for a few days about his girlfriend being unfaithful and had been in a "destructive mode."[82] He recalled that the deceased spent most of the day he died drinking at Ms Considine's house. Mr Foster went and drank a beer with them at Ms Considine's house and had dinner, which the deceased cooked. Mr Foster then left and went to Ms Yorkshire's house before returning home, where he was expecting to see the deceased again. He met the deceased, Ms Considine and a friend at his house. He saw Ms Considine and her friend leave shortly afterwards. After they left Mr Foster and the deceased smoked some cannabis together. The deceased then said "I'm going now" or "I'll catch you later." Mr Foster said he'd see him later. He seemed to Mr Foster to be behaving normally at that time. Mr Foster assumed the deceased had then left the house.[83]

63. Afterwards Mr Foster was watching television for about 20 minutes then he got up to have a shower. As he went to shut the bathroom/laundry sliding door he saw the deceased's legs. He saw the deceased had a sarong around his neck that was twisted so tight it was making the deceased's eyes pop. Mr Foster ran and got some scissors and then cut the deceased down before yelling out to a neighbour for help. Mr Foster admitted he then left the house and went and visited Ms Yorkshire, as he felt he needed support, and while he was there he asked her to ring

[81] Exhibit 1, Tab 28.
[82] Exhibit 1, Tab 28, p. 31.
[83] Exhibit 1, Tab 28.

Ms Barden and tell her the deceased had died.[84] Mr Foster denied he left the house to avoid police, and said he left because he was in shock.[85]

64. Sometime before 4.30 pm a decision was made that Mr Foster was no longer a suspect and Mr Foster was released by the police without charge.[86] At that stage the Major Crime Squad investigators were reasonably satisfied that the death was consistent with a suicide, but they wanted to wait until after the post-mortem examination to confirm that there were no defensive injuries or injuries consistent with the deceased being lifted into position. After the post-mortem examination was conducted on 16 March 2012, officers from the Major Crime Squad concluded that there was no evidence implicating another person in the death of the deceased and the evidence supported the conclusion that he took his life by hanging himself with a length of cord and the sarong.[87]

LIGATURE RE-CONSTRUCTION OR DEMONSTRATION

65. An issue that arose at the inquest was the purported ligature re-construction or demonstration conducted by Constable Goadby with Dr McCreath and the other attending officers prior to the post-mortem examination commencing. It was suggested by the witnesses that, in hindsight, it should not have been called a 're-construction' and the preferred term was a 'demonstration'.[88]

66. Detective Sergeant Graeme Johnston gave evidence at the inquest and he explained that the reason that the term 'reconstruction' is not appropriate in this instance is because reconstructions are usually done in a scientific manner for forensic matters such as ballistics.[89] They are usually done in anticipation of being used in a criminal trial and, hence, are done in a very formal way, with subject matter experts involved, and they are filmed throughout.[90]

[84] Exhibit 1, Tab 28.
[85] Exhibit 1, Tab 28, p. 21.
[86] Exhibit 1, Tab 29.
[87] T 5 – 6; Exhibit 1, Tab 2, p. 15.
[88] T 6.
[89] T 7.
[90] T 8, 28.

67. In this case, Detective Sergeant Johnston suggested that the forensic officers showed a bit of initiative in what they did, but no one was tasked to perform any type of reconstruction and it was not done as a scientific process. Rather, it was part of an informal discussion process, which is a commonplace event in these sorts of investigations where police try to contextualise how a scene presents and interpret the available evidence.[91] As it was an informal process, no notes were taken of what was done and the event was not filmed. It was thought by the police that simply having Constable Goadby include reference to it in his statement would be sufficient.[92]

68. Counsel assisting the coroner later contacted the police and asked them to provide a video recording of the demonstration, which was then done by Constable Goadby and provided to the court.[93] The re-enactment of the demonstration showed quite clearly how Constable Goadby had theorised that the ligature might have been constructed by the deceased, using the sarong to support the thinner material cord, which might then have made the mark seen on the deceased's neck.

69. It was apparent in the video recording that Constable Goadby was conscious of clarifying that what he was showing in the video was a 'demonstration' rather than a purported recreation or reconstruction of known events. Senior Constable Goadby (now referring to him by his current rank) gave evidence at the inquest that he now believed 'reconstruction' (as he used in his statement) was too strong a word for what was done with Dr McCreath, and it was really no more than a brief informal discussion of a possible theory of how the ligature was comprised. It was done to assist Dr McCreath in performing the post-mortem examination.[94]

70. Senior Constable Goadby was candid in his evidence that the request to do a video of the ligature demonstration made him nervous because he felt it might leave him open to criticism as he is not an expert in ligatures and he was aware that what he was doing would not be classified as a 'reconstruction' in the way that

[91] T 6, 8 – 9.
[92] T 7.
[93] T 9; Exhibit 1, Tab 25.
[94] T 26 – 27.

such things are normally done in the forensic field.[95] His discomfort was evident in the video demonstration, which I acknowledge put him outside his comfort zone. However, as I explained to Senior Constable Goadby at the inquest, the video of the demonstration was of significant assistance to me in understanding how the initial suspicions of the police where allayed.[96]

71. A coronial inquest is different to a criminal trial. A coroner has broad powers when investigating a reportable death at inquests as the coroner is not bound by the rules of evidence and may be informed in any manner the coroner reasonably thinks fit.[97] In those circumstances, I sought to encourage both Senior Constable Goadby and Detective Sergeant Johnston to view a coronial investigation into a death in a different way to preparing for a criminal prosecution and to relay what has occurred in this matter to their colleagues in the hope that the experience of this case will not discourage other police officers from taking the initiative in similar cases. Both witnesses appeared to acknowledge that they understood my expressed position and would at least be open to doing something similar in the future, with some caveats as to the nature of the investigation.

72. Mr Huggins, who appeared on behalf of the Commissioner at the inquest, submitted that if the Western Australia Police received a request from the coroner to do such a similar video demonstration in the future, it would be complied with.[98]

73. As noted earlier, Dr McCreath acknowledged that in retrospect she should have made notes about the ligature demonstration and confirmed that in suspicious hanging cases in the future she would do so as a matter of course.[99]

[95] T 28.
[96] T 28 – 29.
[97] Section 41 *Coroners Act 1996* (WA).
[98] T 34 – 35.
[99] T 19.

AUDIO/VISUAL RECORDING OF POST-MORTEM EXAMINATIONS

74. Interestingly, having reached some sort of consensus on this issue, what was raised with me in submissions on behalf of the Commissioner of Police was what might be described as an indirectly related issue about the desirability of recording post-mortem examinations. Mr Huggins consulted Major Crime Squad detectives and then submitted to me that the Major Crime Squad would be appreciative of a recommendation that "*all post-mortem examinations attended by police be audio-visually recorded.*"[100] Mr Huggins indicated that he was informed the idea had been canvassed with the forensic pathologists but had been met with some resistance.[101] Mr Huggins suggested that a recommendation made by me "might lead to more productive conversations between health or the pathologists and police."[102]

75. I indicated to Mr Huggins at the conclusion of the inquest hearing that I would arrange for enquiries to be made with the Western Australian forensic pathologists so that I could reach an understanding of the current practice and be informed of the position of the forensic pathologists in relation to the proposal, before considering the matter further.

76. After the inquest this issue was raised with the Chief Forensic Pathologist at PathWest Laboratory Medicine WA, Dr Clive Cooke. Dr Cooke advised that there had been no consultation with him by the WA Police in relation to a proposal to audio visually record post-mortem examinations currently attended by police. Dr Cooke was aware the issue had been raised in the context of a proposal for a new 'homicide theatre,' as part of a proposed State Forensic Centre, but not in any other context. Dr Cooke expressed the view that the current theatre used for suspected homicide post-mortem examinations is not really suitable for this initiative or for being retrofitted with audio visual recording equipment.

77. Dr Cooke recalled from his long experience as a forensic pathologist in this State that audio visual recording of post

[100] T 31.
[101] T 31 – 32.
[102] T 36.

mortem examinations had been done occasionally many years ago for certain cases where there were suspicious circumstances surrounding the death or for certain deaths in custody. However, he advised it has not been the practice for many years.

78. Dr Cooke was not aware of any recent occasions where a request to do so had been made and refused but indicated that he would consult the other forensic pathologists in this regard. After consulting with the other forensic pathologists Dr Cooke advised that one forensic pathologist had been asked by attending police to consent to a post-mortem examination being recorded and the request was granted in relation to visual recording but not audio recording. This appears to be the only occasion that a forensic pathologist can recall such a request being made by attending police.

79. Dr Cooke is supportive of some form of visual recording equipment (operated and maintained by WA Police) being installed in the new theatre, if that eventuates, although there is a preference on the part of the forensic pathologists for the process not to be audio recorded, for various reasons that I do not propose to elaborate upon here. At the conclusion of the examination, a copy of the video recording could then to be provided to the forensic pathologist for their records. I am confident that if such a project proceeds there will be significant consultation amongst the affected parties. Accordingly, I don't make any comment in that regard but simply note that there is scope for agreement to be reached for regular recording if a new facility is built.

80. Dr Cooke indicated that for the present, prior to any possible future plans for a new 'homicide theatre' coming to fruition, there is scope for discussions between police and forensic pathologists as to the possibility of police providing their own recording equipment, if the particular forensic pathologist is willing to provide their consent. Again, there is a preference for the process to be visually recorded only at this stage.

81. Based upon the information currently available to me, and noting there has been no formal consultation between the two agencies to try to reach a mutually satisfactory arrangement, I am not minded to make a recommendation as submitted. I do, however, encourage the police and forensic pathologists to start a

discourse on the topic and see if temporary measures can be put in place in cases where the WA Police feel recording of the post mortem examination is necessary based upon the specific features of the particular case (rather than taking a blanket position). Any experience gained from these temporary arrangements could then form the basis for discussion about future needs if at some stage the prospect of a new homicide theatre progresses.

82. The State Coroner has also been consulted about this issue, given it touches upon the State Coroner's functions as set out in section 8 of the *Coroners Act 1996* (WA). The State Coroner has indicated she does not propose to issue any guidelines with respect to this practice at this stage and is content for matters to be dealt with by the forensic pathologists on a case by case basis.

CONCLUSION

83. The deceased died on 11 March 2012 in circumstances that initially raised concerns that another person was involved in his death. A police investigation into the circumstances surrounding the death of the deceased eventually determined that, despite the initial concerns, there was no evidence of criminality involved in the death of the deceased.

84. Although there were initially some unanswered questions in this case, in particular in relation to the nature of the ligature, I am satisfied that the deceased was intoxicated and depressed when he fashioned a ligature out of a drawstring and a sarong and hanged himself with an intention to take his life. I find that he died as a result of ligature compression of the neck (hanging) and that his death occurred by way of suicide.

S H Linton
Coroner
30 March 2017