
JURISDICTION : CORONER'S COURT OF WESTERN AUSTRALIA
ACT : CORONERS ACT 1996
CORONER : PHILIP JOHN URQUHART
HEARD : 10 - 12 NOVEMBER 2020
DELIVERED : 11 MAY 2021
FILE NO/S : CORC 104 of 2019
DECEASED : CROFT, JANICE ANN

Catchwords:

Nil

Legislation:

Nil

Counsel Appearing:

Ms R Collins assisted the coroner
Mr T Lethbridge appeared on behalf of the family
Ms K Ellson appeared on behalf of the WA Police Force and Deputy Sheriff
P Ingilizovska

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

Nil

Coroners Act 1996
(Section 26(1))

RECORD OF INVESTIGATION INTO DEATH

I, Philip John Urquhart, Coroner, having investigated the death of Janice Ann CROFT with an inquest held at Perth Coroners Court, Central Law Courts, Court 85, 501 Hay Street, PERTH, on 10 – 12 November 2020, find that the identity of the deceased person was Janice Ann CROFT and that death occurred on 21 January 2019 at Royal Perth Hospital from phosphine toxicity in the following circumstances:

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SUPPRESSION ORDERS

1. There be no reporting or publication of the name, picture or any other identifying features of Tactical Operator 17, Tactical Operator 22, Tactical Operator 34, Tactical Operator 40, Tactical Operator 90 and Tactical Operator 92.
2. There be no reporting or publication of any details about the decision-making criteria, response times, resourcing, training or any other operational aspects of the Western Australian Police Force's Tactical Response Group
3. There be no reporting or publication of the methodologies, response times, or resourcing of the Western Australian Police Force's Tactical Response Group Negotiators Unit.

INTRODUCTION

1. The deceased (Ms Croft) died on 21 January 2019 at Royal Perth Hospital (RPH) of phosphine toxicity after deliberately ingesting highly toxic fumigation pellets. She was 64 years old. At the time Ms Croft began ingesting the pellets she was about to be apprehended by police officers from the Tactical Response Group (TRG).
2. Ms Croft's death was a reportable death within the meaning of section 3 of the *Coroners Act 1996 (WA)* (the Act) because it was a death that "*appears to have been caused, or contributed to, by any action of a member of the Police Force*".
3. By reason of section 18(1) of the Act I have jurisdiction to investigate Ms Croft's death.
4. Pursuant to section 22(1)(b) of the Act an inquest into Ms Croft's death was mandatory because it appeared her death was caused, or contributed to, by actions of one or more members of the TRG.

5. Section 22(1)(b) of the Act is enlivened when the issue of causational contribution in relation to a death arises as a question of fact, irrespective of whether there is fault or error on the part of the police.
6. I held an inquest into Ms Croft's death at Perth on 10-12 November 2020. The following witnesses gave oral evidence :
 - i. Rodney Croft, husband of Ms Croft;
 - ii. Elise Croft, daughter of Mr and Ms Croft;
 - iii. Constable Mark Heard;
 - iv. Pamela Ingilizovska, Deputy Sheriff;
 - v. Sergeant Craig Reynolds, Negotiator Coordinator, TRG;
 - vi. Tactical Operator 22;
 - vii. Tactical Operator 40;
 - viii. Tactical Operator 42;
 - ix. Dr Clive Cooke, Forensic Pathologist;
 - x. Tactical Operator 90;
 - xi. Mark Hill, Paramedic with St John Ambulance; and
 - xii. Detective Senior Sergeant Jamie Boryczewski, Internal Affairs Unit.
7. The documentary evidence at the inquest comprised of two volumes that were tendered as Exhibit 1 at the commencement of the inquest and a further 10 exhibits (Exhibits 3-12) that were tendered during the inquest.¹ One exhibit was provided after the inquest (Exhibit 13).
8. My primary function has been to investigate Ms Croft's death. It is a fact finding function. Pursuant to section 25(1)(b) & (c) of the Act, I must find if possible, how Ms Croft's death occurred and the cause of her death.
9. Pursuant to section 25(2) of the Act, I may comment on any matter connected with Ms Croft's death including public health or safety or the administration of justice. This is an ancillary function of a coroner.
10. Section 25(5) of the Act prohibits me from framing a finding or comment in such a way as to appear to determine any question of civil liability or to suggest any person is guilty of an offence. It is not my role to assess the evidence for civil or criminal liability, and I am not bound by the rules of evidence.

¹ There was no exhibit numbered 2 as that document was only marked for identification.

11. The focus of the inquest was upon the reasons for the police involvement, first by uniform police officers and then by officers from the TRG, in attending the property of Mr and Ms Crofts in Martin on 21 January 2019 and whether police action on that day caused or contributed to Ms Croft's death.
12. On the basis it would be contrary to public interest, I made suppression orders with respect to six tactical operators from the TRG and other matters relating to the TRG. The terms of those orders are set out on page 3.
13. In making my findings I have applied the standard of proof as set out in *Briginshaw v Briginshaw* (1938) 60 CLR 336 per Dixon J, at 361-362, which requires a consideration of the nature and gravity of the conduct when deciding whether a matter has been proved on the balance of probabilities.

THE EVENTS LEADING UP TO 21 JANUARY 2019 ²

Ms Croft

14. Mr and Ms Croft were married on 15 June 1974. It is clearly evident Mr and Ms Croft had an extremely close and loving relationship over the nearly 50 years they had known each other. They had one son and one daughter. The daughter, Elise Croft, is a lawyer.
15. Initially the family lived in Geraldton where Mr Croft was a shearer. Before her son was born in 1997, Ms Croft was a music teacher. She was a very talented piano player. She also held a lifelong compassion towards animals, particularly injured native animals. Ms Croft was intensely loyal to the people that she knew well. She also loved tending to her garden and on every Thursday she would look after her grandson.

Financial difficulties experienced by Mr and Ms Croft

16. By 1990 Mr and Ms Croft had paid off the mortgage on their house in Geraldton and were debt free. However, after moving to Perth they encountered financial and other difficulties with various business

² Exhibit 1, Vol 2, tab 12, Statement – Rodney Croft; Exhibit 1, Vol 1, tab 9, Statement – Elise Croft

ventures which took a tremendous toll on the mental well-being of them both.

17. Mr and Ms Croft moved to Perth with their two children in 1991. They then purchased a house on a large semi-rural property at 168 Douglas Road, Martin (the property). The Croft family moved into the property on 22 June 1992. It is located approximately 35 kilometres south east of Perth.
18. After moving to Perth, Mr and Ms Croft began operating a newsagency at the Thornlie Square Shopping Centre. This was in partnership with several family members of Ms Croft. Mr Croft also operated a lottery kiosk in the same shopping centre with his brother-in-law.
19. The partnership sold the newsagency in 1994 for a profit; however the purchasers later initiated court action alleging that the turn-over figures which had been provided were false. This action went for over two years and although it was unsuccessful, it placed considerable stress on Mr and Ms Croft.
20. In or about 1994, Mr and Ms Croft were approached by a bottled water supplier to consider a commercial extraction and sale of the water to the supplier from a bore located on the property. The Crofts were interested in that proposal, however what followed was an extracted process when they applied for development approval with the local council. Many neighbours strongly objected to the proposal and were hostile towards the Croft family. The local council sided with the objectors and rejected the development application for the commercial extraction of the water. Mr and Ms Croft then commenced proceedings in the State Administrative Tribunal to overturn the local council's decision. They were ultimately successful and in or about 1998 the Crofts began selling water from the bore to the supplier.³
21. In 1999 the lottery kiosk was sold and Mr and Ms Croft began operating a Jim Kidd Sports Store in the same shopping centre. Ms Croft's stepfather then commenced court action to recover his alleged share of

³ Sometime in about 2005 Mr Croft, with financial assistance from a relative, also began a business venture bottling water from the bore and using his own company to sell it overseas.

the proceeds from the sale of the lottery kiosk. That matter was subsequently settled out of court.

22. The Crofts acquired a second Jim Kidd Sports Store in Willetton sometime in 2001 or 2002. They had taken out business loans for both stores.
23. In about 2003 Mr Croft commenced his own court action against the franchisor of Jim Kidd Sports Stores in regards to the terms of the franchise agreement. Mr Croft engaged a law firm to represent him and the litigation went on for a number of years. Mr Croft's claim was only partially successful.
24. In about 2005 Mr Croft attempted suicide by overdosing on medication prescribed for his chronic back pain. Ms Croft found him unresponsive in bed and he was conveyed by ambulance to RPH where he remained for about a week.
25. In or about early 2006 Mr Croft attempted suicide, again by an overdose. This attempt was more serious and he was admitted to Sir Charles Gairdner Hospital in a coma.
26. Understandably, these suicide attempts caused Ms Croft a great deal of stress for some time. However, she was reluctant to engage with her doctor or seek psychiatric help for this stress.
27. Despite the Crofts refinancing their loans with another bank, the business loans resulted in a foreclosure and receivers were appointed for the two Jim Kidd Sports Stores which eventually closed in about mid-2006.
28. In 2007 the bank commenced court action claiming, amongst other things, vacant possession of the property. The Crofts defended these proceedings and refused any settlement that involved the sale of the property. With the assistance of their daughter, Mr and Mrs Croft reached a settlement with the bank in 2015 that did not involve the property being sold.

29. In May 2015 Mr and Ms Croft obtained a loan from Bluestone Mortgages, a mortgage lender based in New South Wales, in the amount of \$912,031.65 (the 2015 loan). Although the funds for the 2015 loan came from Bluestone Group Pty Ltd trading as Bluestone Mortgages, Permanent Custodians Ltd acted as trustee for the mortgage lender. As trustee, its role was to secure assets and hold those in trust on behalf of Bluestone Mortgages. Because of this role, Permanent Custodians Ltd appeared on the associated loan documentation as the lender of record and mortgagee.⁴
30. By 2015 Mr Croft began to start up another business venture with a close friend; this time a saw mill business in Jarrahdale. The 2015 loan that had been secured against the property was to help fund the establishment of this business.
31. The saw mill was on land owned by the National Trust of Western Australia (the Trust) and Mr Croft was the leasee. However, elements within the local community opposed the development of the saw mill business and attempted to stop it from operating. The local shire then commenced a prosecution against Mr Croft and the Trust also began legal proceedings against Mr Croft to have him evicted.
32. Mr Croft represented himself regarding the proceedings commenced by the Trust and was unsuccessful.
33. However, in November 2017 the Armadale Magistrates Court acquitted Mr Croft of the charge laid by the local shire that he had used land without planning consent required by the relevant Serpentine - Jarrahdale Town Planning Scheme in regard to the operation of the saw mill.
34. Following the dismissal of the charge, Mr Croft launched a damages claim against the local shire asserting its actions had caused the saw mill business to fail. He engaged lawyers to act for him regarding that claim.
35. This claim had not been finalised by January 2019, however Mr Croft was expecting a compensation payout.

⁴ See Exhibit 3, Duplicate Certificate of Title for the property

Ms Croft's attachment to the property

36. By 2019 Ms Croft had had a very long connection to the property; although it was a connection that her daughter regarded as “*extremely unhealthy*”.⁵ Ms Croft described the property as her sanctuary and her place of safety. She cared for numerous stray cats that made their way onto the property and looked after chickens and roosters. She also cared for a large number of injured native animals which included cockatoos, parrots and even a blind emu. Ms Croft would often refuse to leave the property even for short durations, stating her need to care for her garden and animals as her excuse.⁶

Default on the 2015 loan

37. Following a default on the 2015 loan, Permanent Custodians Ltd filed a writ in the Supreme Court against Mr and Ms Croft on 13 April 2017. This writ was apparently served on the Crofts in October 2017. On 23 August 2018, a Property (Seizure and Delivery) Order was issued by the Supreme Court pursuant to Part 5, Division 1 of *Civil Judgments Enforcement Act 2004 (WA)* (the Order). This authorised the Sheriff of Western Australia to enter the property, with force if necessary, and evict persons not entitled to be there, take possession of the property and deliver it into the judgment beneficiary's possession.⁷
38. That eviction was initially scheduled for 21 September 2018. However, 10 days before that date the solicitors for Permanent Custodians Ltd (the solicitors) requested that the Sheriff's Office stay the eviction.
39. On 21 December 2018 a request was made by the solicitors to the Sheriff's Office to reschedule the eviction. That new eviction date was set down for Monday, 21 January 2019 at 9.00 am.⁸
40. On 2 January 2019 a Sheriff Notice was hand-delivered to the property by a Deputy Sheriff advising of the attendance on 21 January 2019 by

⁵ Exhibit 1, Vol 1, tab 9, Statement – Elise Croft, p.24

⁶ Exhibit 1, Vol 1, tab 9, Statement – Elise Croft, p.25

⁷ Exhibit 10A, Form 36, Property (Seizure and Delivery) Order Rural Property dated 23 August 2018

⁸ Exhibit 10C, Trail of emails between Galilee Solicitors and Sheriff's Office

the Deputy Sheriff, “to formally take possession and any person then remaining on the property will be removed”.⁹

41. Although the service of this Notice is not a legal requirement, it is a standard operating procedure of the Sheriff’s Office and is provided as a matter of courtesy.¹⁰

Ms Croft’s mental health

42. Ms Croft had been diagnosed with bipolar disorder and had previously been prescribed lithium (a mood stabilising medication) to treat it. According to Mr Croft, she was not taking any medication for her bipolar disorder at the time of her death.
43. The prospect of having to leave the property had a substantial impact on Ms Croft. As stated by Elise Croft:¹¹

Whenever the ongoing legal issues looked like they were going against Mum and Dad, my Mum would make it very clear to my Dad and I that she wouldn’t leave the property alive.

Essentially, my Mum made it clear that selling the property was not an option, as she loved her home and she needed to look after all the animals there. She had threatened suicide in my presence on various occasions during the ongoing financial pressures, however up until her death I don’t believe she had ever attempted it.

44. It is very clear from the evidence before me that Mr and Ms Croft were under significant financial pressure for much of their lives after they moved to Perth in 1991. The various business ventures that either they or Mr Croft were involved in were often mired in disputes, court actions and financial problems. The strain on Mr Croft led him to attempt suicide twice and for Ms Croft to threaten suicide on more than one occasion.

⁹ Exhibit 10B, Sheriff Notice – Property (Seizure and Delivery) Order to Mr and Ms Croft dated 3 January 2019. Although the Notice is dated 3 January 2019, it appears the Deputy Sheriff attended on Wednesday, 2 January 2019.

¹⁰ Exhibit 1, Vol 1, tab 10, Statement – Pamela Ingilizovska; ts 10.11.20 (Ingilizovska), p.136

¹¹ Exhibit 1, Vol 1, tab 9, Statement – Elise Croft, p.25

45. In addition to that, by 2019 Mr Croft was unwell physically. He had chronic pain due to long term degeneration of the vertebrae in his neck caused by his work as a shearer. He was also diagnosed with porphyria cutanea tarda, a rare blood disorder affecting the skin. He had undergone surgery to remove skin cancers.¹²
46. Against this background Mr and Ms Croft prepared themselves for the flash-point they anticipated would occur on 21 January 2019.

THE EVENTS OF 21 JANUARY 2019

47. Pamela Ingilizovska (Ms Ingilizovska), a Deputy Sheriff, was tasked with enforcing the Order on 21 January 2019. As there was an altercation between Mr Croft and another Deputy Sheriff who had served the Notice on 2 January 2019, Ms Ingilizovska had arranged for police to accompany her to effect the eviction.¹³ Another reason Ms Ingilizovska arranged for police to attend was that there was no mobile telephone reception at the address.
48. Shortly before 9.00 am on 21 January 2019, Constable Mark Heard and Constable Brendan Gibson (who were both attached to Gosnells Police Station) met with Ms Ingilizovska a short distance from the property. Also in attendance was Mr Shane Shaw, a Process Server, who was acting as the agent for Permanent Custodians Ltd.
49. In anticipation of the enforcement of the Order Mr Croft had been up since early that morning. Prior to 9.00 am he had placed lighted mosquito coils just inside the front double gates of the property. He had manoeuvred a small tractor just behind these gates with the bucket of the tractor holding a large black plastic drum. The bucket had been raised to a position above head height and it was not possible to see what was inside the drum. Mr Croft had placed a modified firearm on the bonnet of the tractor so that it was visible to anyone standing outside the front

¹² An early exchange Ms Croft had with the TRG negotiator, Sergeant Craig Reynolds, was a stark example of the stress this was causing Ms Croft: Exhibit 5, Sergeant Reynolds Audio Recording of his Negotiation and other conversations on 21 January 2019 from 15 minutes 59 seconds to 16 minutes 32 seconds.

¹³ Exhibit 1, Vol 1, tab 10, Statement – Pamela Ingilizovska, p.2

gates. He was also in possession of several shotgun cartridges.¹⁴ The front gates were locked.

50. Constable Heard and Constable Gibson decided to attend the property before Ms Ingilizovska and Mr Shaw to assess the situation as they had received advice from Mr Shaw that he had earlier driven past the property and had seen Mr Croft sitting in the tractor.¹⁵
51. The two police officers arrived at the property just after 9.00 am. They parked their marked police vehicle outside the front gates. They had a conversation with Mr Croft as he sat on the tractor which was positioned about five metres inside the front gates.
52. It is not in dispute what the general tenor was of the conversations that followed. Mr Croft made it very clear that no-one was to come onto the property to try and take it from him. He stated that he did not want to hurt anybody but if anyone entered the property he would do everything to stop them, and his wife would kill herself by taking cyanide. All attempts by the two police officers to defuse the situation were unsuccessful.
53. At one point Ms Ingilizovska and Mr Shaw arrived and Ms Ingilizovska recorded the conversations that the police officers and she had with Mr Croft on her mobile telephone before she left. During that short recording Mr Croft can be heard saying the following to the police officers:¹⁶

I don't give a fuck about going to goal.

Don't come any closer or I will tell you I will turn it on.

Don't go there, stop. You'll trigger it. Go back there.¹⁷

¹⁴ After Mr Croft had been apprehended later that day a search of the tractor by police located the modified firearm partially concealed behind the tractor's right hydraulics arm: Exhibit 1, Vol 1, tab 13B, Photograph 8. A live 12 gauge round of ammunition was in the firearm's chamber. On 12 September 2019 in Armadale Magistrates Court, Mr Croft pleaded guilty to one charge of possession of a firearm with circumstances of aggravation and one charge of being an unlicensed person in possession of a firearm/ammunition. He received suspended fines for these offences: Prosecution Statement of Material Facts, Brief No: 1887275-1, p.5; WAPF History for Court – Criminal and Traffic re Croft, Rodney Kim

¹⁵ Exhibit 1, Vol 1, tab 11, Statement – Shane Shaw, pp. 3-4

¹⁶ Exhibit 4, Mobile Telephone Footage taken by Ms Ingilizovska on 21 January 2019

¹⁷ This was said by Mr Croft as one of the police officers walked towards the front fence line.

I've got the money coming in now within a month.

I've been sitting here since 4 o'clock this morning.

Don't come on the property and they [Ms Ingilizovska and Mr Shaw] won't get hurt. They come onto the property and my wife kills herself and they get fuckin' hurt I promise that. And don't think I haven't organised it 'cause I fuckin' have.

Cops are only debt collectors for the fuckin' government.

If she [Ms Croft] kills herself there is going to be fuckin' trouble.

54. Ms Ingilizovska continued her recording when she approached Mr Croft. After introducing herself, she politely advised Mr Croft that although today would be going forward the eviction was not necessarily permanent and that, *"If the money is coming in you can have the house back"*. Mr Croft responded, *"I am not giving this fuckin' house up to you fuckin' people. Over my dead body"*. He then repeated, *"I'm not going to do anything to you people unless you come onto the property"*.¹⁸
55. Given the threats made by Mr Croft and the location of the modified firearm on the tractor's bonnet that was within reach of Mr Croft, the decision was made by the police officers to withdraw. Constable Gibson then contacted the TRG Assessment Team and advised of the situation.¹⁹
56. The two police officers positioned their police vehicle some 50 to 60 metres away from the front gates so they could still see and communicate with Mr Croft from a safer distance.
57. Before the TRG arrived Constable Heard saw a lady walk from the direction of the house on the property and approach Mr Croft who was still seated on the tractor. Mr Croft introduced this lady as his wife to the police officers. This was the first time the police had seen Ms Croft. Constable Heard observed her holding a white coloured container against her chest. He estimated that it was about 20 cm long and 5 cm in diameter. Although Mr Croft and Ms Croft would not tell him what was in the container, Constable Heard correctly assumed it was the cyanide that Mr Croft had previously mentioned. He noted that Ms Croft was extremely agitated and upset, constantly walking back and forth between

¹⁸ Exhibit 4, Mobile Telephone Footage taken by Ms Ingilizovska on 21 January 2019

¹⁹ Exhibit 1, Vol 1, tab 11, Statement – Constable Heard, p.6

the house and the tractor. At one point she yelled out to the police officers, “If you come onto the property I am going to kill myself” and a short time later, “If you come in here and take him, I will drink the cyanide, leave us alone”.²⁰

58. Ms Croft’s demeanour was always changing. At times she was aggressive and would yell at police and at other times she would calm down and offer the police water and ice cream.²¹

The attendance by the TRG

59. Officers from the TRG arrived at about 11.00 am. They deliberately remained out of sight from Mr and Ms Croft.
60. Those officers overseeing the operation that subsequently followed were Inspector Donal Heise who had the role of the TRG Tactical Group Commander, Senior Sergeant Dale Robinson who was the TRG Tactical Commander and Inspector Raymond Briggs from the Armadale District Office who was the Forward Commander. It was the role of the Forward Commander, in consultation with other senior officers, to approve the Deliberate Action Plan (the Plan) to apprehend Mr and Ms Croft that was later carried out.²²

The role of the TRG negotiator

61. The critical role of the Primary Negotiator for this matter was performed by Sergeant Craig Reynolds. He is a very experienced negotiator. He has been the Negotiator Coordinator at the TRG since August 2014. Prior to that he had been a member of the Negotiator Unit for 21 years on a part time basis. He is extremely well qualified having completed a Basic Negotiator’s Selection Course in 1993 and completing a number of other courses since then. He has attended in excess of 150 crisis incidents in his role of a Police Negotiator and Negotiator Coordinator.²³ On this occasion Sergeant Reynolds was assisted by another qualified Police

²⁰ Exhibit 1, Vol 1, tab 11, Statement – Constable Heard, p.8

²¹ Exhibit 1, Vol 1, tab 11, Statement – Constable Heard, p.8

²² ts 10.11.20 (Reynolds), p.175; Exhibit 1, Vol 2, tab 6, Statement – Inspector Briggs; Exhibit 1, Vol 2, tab 7, Deliberate Action Plan signed by Inspector Briggs on 21 January 2019

²³ Exhibit 1, Vol 1, tab 14, Statement – Sergeant Reynolds, pp.1-3

Negotiator, Senior Constable Melanie Gray, who was allocated the role of Secondary Negotiator and Recorder.²⁴

62. At the time of this incident the Australian New Zealand Policy Guidelines for Negotiation 2018 were in place. Those guidelines identified that the initial contact by trained police negotiators is vitally important.²⁵ Initial communication should clearly convey that the aim of the negotiation is the peaceful resolution of the situation. The negotiation response and the manner in which the negotiation activity is to be undertaken was guided at the time by the Australian New Zealand Framework for the Deployment of Police to High Risk Situations 2016 (the Framework). Due to the nature of the incident involving the Crofts it was deemed a High Risk Situation.²⁶
63. The Framework stated that the preferred principle response strategy for the resolution of any high risk situation was to contain and negotiate. As stated by Sergeant Reynolds:²⁷

Negotiation is identified as a planned intervention on behalf of the Police Forward Commander to resolve an incident and to achieve a peaceful resolution through the use of communication.

64. Not surprisingly, Sergeant Reynolds also stated that:²⁸

Non-violent means should be used as far as it is reasonably possible before resorting to the use of force by Police.

65. Before he attended the property, Sergeant Reynolds started researching any available information from the various police systems regarding Mr and Ms Croft. Part of those inquiries involved Sergeant Reynolds contacting the Mental Health Emergency Response Line (MHERL) to ask if there were any relevant mental health records that he needed to be aware of. Such records would include if someone was on medication, if they were receiving treatment from a psychiatrist or a psychologist and any relevant information of recent history involving contact with the

²⁴ Exhibit 1, Vol 1, tab 14, Statement – Sergeant Reynolds, p.7

²⁵ Exhibit 1, Vol 1, tab 14, Statement – Sergeant Reynolds, p.3

²⁶ Exhibit 1, Vol 1, tab 14, Statement – Sergeant Reynolds, p.4

²⁷ Exhibit 1, Vol 1, tab 14, Statement – Sergeant Reynolds, p.4

²⁸ Exhibit 1, Vol 1, tab 14, Statement – Sergeant Reynolds, p.4

public health system.²⁹ Sergeant Reynolds said he was advised by MHERL, “*that there was some particulars in relation to both of these people but nothing of significance*”.³⁰

66. The conclusion I draw from this evidence is that Sergeant Reynolds was not advised of Ms Croft’s diagnosis of bipolar disorder or Mr Croft’s two previous suicide attempts as that information would clearly be “*of significance*”.

The audio recording of the negotiation process

67. Prior to commencing negotiations with Mr and Ms Croft, Sergeant Reynolds activated his portable voice recorder which he then utilised throughout the duration of the incident (the audio recording). This has been a standard procedure for a number of years.³¹ Although Sergeant Reynolds’ voice can be heard clearly in the audio recording, together with the voices of others who spoke to him in close proximity, the voices of Mr and Ms Croft were less distinctive. The distance between them and Sergeant Reynolds for most of the time was approximately 40 to 50 metres.³²
68. The negotiator’s vest that Sergeant Reynolds was wearing also had communications equipment encased within it that supplied a continuous audio-link of the ongoing discussions he was having. This enabled other police involved to monitor the negotiations in real time and assisted with situational awareness and the ongoing threat assessments.³³

The negotiations

69. The paragraphs that follow the above sub-heading are from the audio recording of Sergeant Reynolds’ negotiations with Mr and Ms Croft and other conversations he had with police officers during those

²⁹ ts 11.11.20 (Reynolds), p.177

³⁰ Exhibit 1, Vol 1, tab 14, Statement – Sergeant Reynolds, p.7

³¹ ts 11.11.20 (Reynolds), p.180

³² Exhibit 1, Vol 1, tab 14, Statement – Sergeant Reynolds, p.10

³³ Exhibit 1, Vol 1, tab 14, Statement – Sergeant Reynolds, pp.7-8

negotiations.³⁴ The audio recording was continuous for 2 hours 32 minutes 34 seconds and ended shortly after the Crofts were apprehended by TRG operators.

70. At the commencement of the audio recording First Class Constable Jack McDonald (a uniformed police officer who had earlier attended to assist Constable Heard and Constable Gibson) can be heard in the background speaking to the Crofts. He was trying to assure them that police officers would not be entering the property. When Ms Croft told him they have got nothing bad here, he responded by saying he believed her. After several minutes First Class Constable McDonald approached Sergeant Reynolds and advised him that Ms Croft was in possession of a container and she was saying it had cyanide in it.
71. First Class Constable McDonald also advised Sergeant Reynolds that Mr Croft said he had no intention of hurting police and that he was now making threats to self-harm. He also said that Mr Croft was maintaining that he did not have a firearm. Sergeant Reynolds then started speaking directly to Mr Croft at 5 minutes 24 seconds into the audio recording. The evidence before me indicates this was at about 11.45 am.
72. Sergeant Reynolds made it clear from the outset that he was there to help Mr and Ms Croft. He also made it clear that police could not go until police had got them both some “*help*”. Mr Croft responded, “*Well, that’s fine. The only way out of this debt is for both of us to die at our own hands, because we are not leaving this property and it is not going to be taken off us*”. Sergeant Reynolds adopted a sympathetic approach towards the complaints made by Mr Croft. However Mr Croft maintained that the police were only backing up the Sheriff; at one point commenting, “*It is no good saying that you can sympathise with me, it doesn’t say anything*”. Mr Croft repeatedly stated there was money coming in to pay the creditor as he had arranged a sale of the property with a buyer who would allow him and Ms Croft to remain living in the house.

³⁴ Exhibit 5, Sergeant Reynolds’ audio recording of his negotiation and other conversations on 21 January 2019

73. As to the Order, Sergeant Reynolds said to Mr Croft that, *“If the Judge make a legal order, it’s our job to help enforce that order. That’s what the police do”* and *“The Judge has issued an order, alright? And it’s a legal order until the Judge changes that”*.³⁵
74. It was evident that after 16 minutes of negotiations Sergeant Reynolds, despite his best intentions, had made little progress. After Mr Croft complained about the altercation he had with the Deputy Sheriff earlier that month, the following exchange took place:
- Sergeant Reynolds: “Well don’t you think having the police here will stop them [the Sheriff’s Office] doing you any harm?”
- Mr Croft: “Fuck off, you didn’t come to do that. You didn’t come here to do that Craig, you came here to support them.”
75. Twenty-eight minutes into the recording Sergeant Reynolds had a discussion with Senior Constable Gray. Senior Constable Gray indicated that Mr Croft, *“has got to be arrested under Mental Health [Act]”*. When she asked Sergeant Reynolds if he was happy with that he responded, *“Yes”*. Sergeant Reynolds enquired whether the same process should take place with Ms Croft and it was agreed that it would.
76. In a conversation with Inspector Heise, Sergeant Reynolds stated, *“I don’t think they are going to kick up much of a fucking stink”* and *“My main concern is that they are working themselves up to a fucking frenzy”*. At approximately 37 minutes into the audio recording he added that Ms Croft is, *“the more fired up one of them at the moment”*.
77. At 52 minutes 30 seconds into the audio recording Sergeant Reynolds and Ms Croft had the following conversation:

Ms Croft: “If I leave here, all the animals on this property I have looked after for 28 years, all of them will die.”

Sergeant Reynolds: “How many have you got there, Janice?”

Ms Croft: “I’ve probably got about 55 kangaroos. I’ve got about 40 rescued cats.”

³⁵ Although that was Sergeant Reynolds’ belief, as outlined later in this finding it was incorrect to say that the Order for the eviction had to be enforced that day *“until the Judge changes that”*.

Sergeant Reynolds: "Alright."

Ms Croft: "And they don't all – I haven't got them all confined there, you know. They walk around so I can't cage them. I've got birds with injuries – injured. They can't fly, they can't walk."

Sergeant Reynolds: "Yes and it's hot weather, I know. I understand where you are coming from with it. Alright?"

Ms Croft: "I can't leave here and if you – I've tried – I've tried to work out how I can do it, and I can't."

Sergeant Reynolds: "Yes."

Ms Croft: "The only choice I have is to die and - -"

Sergeant Reynolds: "No, no. Who is going to look after the animals then, Janice?"

Ms Croft: "Beg pardon?"

Sergeant Reynolds: "Who would look after the animals then, if you and Rodney are dead?"

Ms Croft: "Who would look after them when I'm not here?"

Sergeant Reynolds: "No, no. Listen. If you come out and you get something sorted through the courts, then you may – you will be able to get access back, you were saying."

Ms Croft: "I can't – I need to go right now and go and feed the young ones – and tend to the sick ones. Alright? Right now. I can't leave them to suffer."

Sergeant Reynolds: "No. I don't want to see anyone suffer. I don't want to see any animals suffer."

Ms Croft: "If I have to leave the property. Then if I have to leave the property, I won't be able to handle it in my head – what's happening. I won't be able to live with it. I will just have to die."

78. Shortly after the above exchange Mr Croft asked Sergeant Reynolds to ring his daughter and tell her that people, "*might be coming to try and take the house*".
79. Sergeant Reynolds was then advised by another police officer that Elise Croft was already on her way and that, "*Command are trying to bring her in to help*". Sergeant Reynolds then expressed his view that the Crofts could be grabbed when they were together as, "*They are not*

going to cause any threat to anyone". He was advised the "DA" (Direct Action Plan) had not yet been approved as Command were waiting for, *"the daughter to come up"*.

80. Senior Constable Gray then informed Sergeant Reynolds that Mr Croft's lawyer had phoned back to advise that nothing had been lodged today on behalf of his client and that he could not give police anymore information without Mr Croft's permission. At 59 minutes 30 seconds police expressed their frustration amongst themselves at the lack of information Mr Croft's lawyer had provided.
81. At 1 hour 4 minutes Sergeant Reynolds had a telephone conversation with Mr Croft's lawyer. Sergeant Reynolds advised the lawyer that Mr Croft might call him and that he should not try to inflame the situation and to, *"just advise him there is a legally enforceable Order at the moment, until you guys can get into court and sort it out"*.
82. After seeing Mr Croft talking on his mobile telephone, Sergeant Reynolds asked him (at 1 hour 20 minutes 30 seconds) if he was speaking to his lawyer. Mr Croft replied that he had not but he will. The following conversation then took place between Sergeant Reynolds and the Crofts:

Sergeant Reynolds: "Are you guys going to come out for me?"

Mr Croft: "Hey?"

Sergeant Reynolds: "Are you and Janice going to come out?"

Mr Croft: "Come out of the property?"

Sergeant Reynolds: "Yes."

Mr Croft: "No. No way we are coming out."

Sergeant Reynolds: "Mate, you are not going to achieve anything in there. You are just going to cause heartache."

Mr Croft: "We are going to achieve one or two things. We're going to get what we want and then (indistinct)."

Ms Croft: "We've got a really good friend doing something really nice for us."

Sergeant Reynolds: "Sorry?"

Ms Croft: "We've got a really good friend doing a really nice thing for us."

Sergeant Reynolds: "Ok."

Ms Croft: "And I am staying here and I will die if I have to leave."

83. At 1 hour 44 minutes Sergeant Reynolds advised another police officer that Mr Croft was currently having a heated telephone conversation with his lawyer. Sergeant Reynolds then asked what Elise Croft had to say and he was told she has, "*not got much to say*". The other police officer does, however, inform Sergeant Reynolds that Elise Croft had said her mother has, "*bipolar*".
84. Sergeant Reynolds then explained that Mr Croft had told him he had arranged a private sale of the property with a buyer who had agreed for him and his wife to live in the house until they die. He added that he did not know if that was true or not and when the other police officer also expressed his disbelief, Sergeant Reynolds replied, "*But I can't disprove that here*". Sergeant Reynolds also said that Mr Croft believed the bank had found out about the sale and this explained why the bank was now foreclosing because it could get more money.
85. Sergeant Reynolds then met Elise Croft. He repeated his mistaken belief to her that the police cannot go against the Order unless the Court gave the police permission to do that. Elise Croft correctly advised Sergeant Reynolds the Order could also be withdrawn if the beneficiary of the Order agreed to withdraw it.
86. After speaking to Elise Croft, Sergeant Reynolds conferred with other police officers. He advised them that he did not think Mr Croft would hurt anyone, that he was not threatening any harm to police and that he was "*90% sure*" Mr Croft would not do anything to police.
87. At 1 hour 50 minutes 30 seconds Sergeant Reynolds advised that he was going to go back to speak to Mr Croft and obtain his permission for Elise Croft to speak to the lawyer to, "*See if she can get some sort of stay in*

regards to the Order – some agreement for a stay with the other mob. So tell them that. So that is another avenue we've got."

88. A discussion is then held where the incorrect view was expressed that this avenue still required the matter to go through the Court. Despite Elise Croft's advice to Sergeant Reynolds that stated the correct position, Sergeant Reynolds agreed with that.
89. At about this stage the Plan had been approved. This approval had been made at 1.28 pm.³⁶ Sergeant Reynolds then conferred with other police and stated he intended to have Ms Croft at the front fence by asking her for more water.
90. At 2 hours 5 minutes Sergeant Reynolds advised police that he did not know if Ms Croft still had "*that thing*" in her hand.³⁷ He was told, "*That won't change anything*". Although Sergeant Reynolds agreed, he then added, "*It won't change anything, but if worse comes to worst, if the boys are coming in from the back*". (Regrettably, what ultimately happened did lead to the worst case scenario that Sergeant Reynolds had apparently contemplated with this observation).
91. A further discussion then took place as to how Sergeant Reynolds could get Ms Croft closer to the fence.
92. At 2 hours 7 minutes 37 seconds, Sergeant Reynolds expressed that his "*only concern*" with Ms Croft was, "*She's been walking around with that cup*".³⁸ He then confirmed that, "*If we can get her up near the fence I can see if she has got anything in her hands or not*".
93. At 2 hours 28 minutes 21 seconds Sergeant Reynolds had a conversation with the Crofts about Ms Croft getting some more water for himself. After leaving his water bottle close to the fence line which was collected by Ms Croft he advised police at 2 hours 29 minutes 7 seconds that, "*She has got nothing in her hands*". At 2 hours 29 minutes 18 seconds he asked Ms Croft what it was that he could see on her hand (which

³⁶ Exhibit 1, Vol 2, tab 7, Deliberate Action Plan signed by Inspector Briggs on 21 January 2019

³⁷ This was a reference to the canister that held the fumigation pellets.

³⁸ This was another reference to the canister that held the fumigation pellets.

appeared to look like a white identification band worn by hospital patients). Ms Croft responded that it was just a tag for her key.

94. Sergeant Reynolds then provided a running commentary to police as to what Ms Croft's movements were after that. At 2 hours 29 minutes 35 seconds he stated that she was at the back of the dozer³⁹ and then walking towards the house. At 2 hours 29 minutes 49 seconds he stated that Ms Croft was coming back to the dozer to grab Mr Croft's water bottle. At 2 hours 30 minutes 3 seconds he reported that the Crofts were still together at the dozer before advising seven seconds later that Ms Croft was walking off towards the house. At 2 hours 30 minutes 16 seconds he stated that Ms Croft had come back and at 2 hours 30 minutes 35 seconds he reported that she was walking away.
95. For the next 90 seconds Sergeant Reynolds had a mundane conversation with Mr Croft who had remained at the tractor.⁴⁰ The topics of this conversation included when Mr Croft first met Ms Croft and where their son was presently working.
96. At 2 hours 32 minutes 8 seconds Ms Croft can be heard in the background yelling out "*Rod watch out, here they come*". Someone closer was then heard yelling, "*Police don't move*" and telling Mr Croft to get on the ground. Mr Croft was heard abusing the TRG operators and another command was made for him to get on the ground. At 2 hours 32 minutes 20 seconds a single discharge of a firearm⁴¹ can be heard. Just before that discharge someone said, "*Drop it now mate*". Following the discharge Mr Croft was told to, "*Get on the fucking ground*". He continued to abuse TRG operators.
97. As the simultaneous apprehension of Ms Croft was a further distance away from Sergeant Reynolds it was not possible to hear any discernible exchanges between her and the TRG operators who were near her.
98. The recording ends at 2 hours 32 minutes 34 seconds.

³⁹ This was the description used by Sergeant Reynolds for the tractor that Mr Croft had positioned behind the front gates.

⁴⁰ This was to keep Mr Croft distracted whilst two teams of tactical operators entered the property.

⁴¹ This was the firing of a less-lethal bean bag round by Tactical Operator 2.

Implementation of the Deliberate Action Plan

99. The decision to apprehend the Crofts was made due to their deteriorating mental and physical health.⁴² The Plan was approved by Inspector Briggs. It was to involve a “*snatch arrest*” to be affected when the Crofts were outside. The Plan was for the Crofts, “*To be apprehended simultaneously*”. A total of eight TRG operators were to form two teams and enter the property under the direction of the Deliberate Action Commander, who was Tactical Operator 40.⁴³ Tactical Operator 40 was a very experienced operator having been attached to the TRG for 14 years as of the date of the inquest.⁴⁴
100. At about 1.40 pm Tactical Operator 40 held a briefing with Inspector Heise and Sergeant Reynolds. He was advised that the other two police officers were of the view that the Crofts would not surrender to police without attempting to take their own lives. It was their view that ongoing negotiations would be fruitless.⁴⁵ It was decided that the Plan would not be implemented until there was an opportunity to reduce the likelihood of serious injury to any persons.
101. At 1.45 pm Tactical Operator 40 was handed control of the operation from Sergeant Robinson. His objective was, “*to apprehend the male and female when they were both near the front of the property with nothing sighted in their hands*”.⁴⁶
102. Alpha Team, comprising of Tactical Operators 2, 34, 40, 42 and 92, were tasked with the apprehension of Mr Croft and were located in an area at the front of the property.⁴⁷ Bravo Team, comprising of Tactical Operators 17, 22 and 90, were tasked to approach covertly from the rear of the property and apprehend Ms Croft.⁴⁸

⁴² Exhibit 1, Vol 1, tab 19, Statement – Tactical Operator 40, p.12

⁴³ Exhibit 1, Vol 2, tab 7, Deliberate Action Plan signed by Inspector Briggs on 21 January 2019

⁴⁴ ts 11.11.20 (Tactical Operator 40), p.262

⁴⁵ Exhibit 1, Vol 1, tab 19, Statement – Tactical Operator 40, p.12

⁴⁶ Exhibit 1, Vol 1, tab 19, Statement – Tactical Operator 40, p.11

⁴⁷ Exhibit 1, Vol 1, tab 20, Statement – Tactical Operator 42, p.10

⁴⁸ Exhibit 1, Vol 1, tab 21, Statement – Tactical Operator 90, p.2

103. After receiving confirmation from Sergeant Reynolds that Ms Croft did not have anything in her hands, Tactical Operator 40 gave the order for Bravo Team to move towards the Crofts at about 2.12 pm.⁴⁹
104. He and two other tactical operators from Alpha Team then entered the property from the front. Before either team could get close to the location of the tractor Ms Croft began walking back towards the house and in the direction of the water tanks that were south of the house.⁵⁰
105. After reaching the water tanks and crouching down at one of them Ms Croft stood back up and began walking towards the location of the tactical operators from Bravo Team who by that stage were in front of the house.⁵¹
106. Ms Croft saw the tactical operators when she was about 15 metres from them. She immediately began to run away and commenced shouting out a warning to Mr Croft. The tactical operators from Bravo Team pursued her, telling her to stop. They saw that she was holding what looked like a silver metal cup⁵² or drink bottle⁵³ which she brought up to her lips as she was running. This was the canister that held what the Crofts had said to police was cyanide.
107. Tactical Operator 40 was in a position where he could see that Ms Croft had observed the tactical operators from Bravo Team. He called “*compromise*” over the radio which informed other tactical operators to expedite their apprehension of Mr Croft.⁵⁴
108. Tactical operators from Bravo Team were able to apprehend Ms Croft within a matter of seconds by taking her to the ground. This occurred by Tactical Operator 22 approaching her from behind and wrapping his right arm around her neck in an attempt to stop her from ingesting anything more from the canister she was holding. His momentum took

⁴⁹ Exhibit 1, Vol 1, tab 19, Statement – Tactical Operator 40, p.14

⁵⁰ Exhibit 1, Vol 1, tab 19, Statement – Tactical Operator 40, p.14

⁵¹ Exhibit 1, Vol 1, tab 19, Statement – Tactical Operator 40, p.15

⁵² Exhibit 1, Vol 1, tab 17, Statement – Tactical Operator 22, p.7

⁵³ Exhibit 1, Vol 1, tab 21, Statement – Tactical Operator 90, p.4

⁵⁴ Exhibit 1, Vol 1, tab 19, Statement – Tactical Operator 40, p.15

her to the ground.⁵⁵ He was not able to prevent Ms Croft from getting at least one fumigation pellet into her mouth from the canister.

109. As they made contact with the ground the pellets from the canister were spilled. When she was on the ground Ms Croft began to bite at the spilt pellets that were near her. Tactical Operator 22 attempted to remove what Ms Croft had in her mouth by placing his fingers in her mouth to scrap out the contents. As he did that Ms Croft bit down on his left thumb.⁵⁶
110. Ms Croft continued to forcibly resist efforts by the tactical operators to clear her mouth. She kept repeating that she wanted to die. When asked what the pellets were she replied they were rat poison.⁵⁷ At one point water was used to remove the pellet residue from her face and mouth.⁵⁸ As the tactical operators did this they noticed a strong unpleasant odour coming from around Ms Croft.⁵⁹
111. When Ms Croft yelled out her warning to Mr Croft, tactical operators from Alpha Team began their apprehension of Mr Croft. As can be heard from the audio recording, these tactical operators were yelling to Mr Croft not to move and to get on the ground. Mr Croft ignored those commands and instead began running towards Ms Croft. The tactical operators from Alpha Team pursuing Mr Croft noticed he was holding an object in his hand which they believed was either a large screw driver⁶⁰ or a knife.⁶¹
112. At one point Mr Croft turned and moved towards Tactical Operator 34 who was a short distance away. He was still holding the object. Tactical Operator 34 pointed his rifle at Mr Croft and yelled, "*Police don't move*".⁶² Tactical Operator 2, who was several metres from Mr Croft,

⁵⁵ Exhibit 1, Vol 1, tab 17A, Statement – Tactical Operator 22, p.8

⁵⁶ Exhibit 1, Vol 1, tab 17A, Statement – Tactical Operator 22, pp.8-9

⁵⁷ Exhibit 1, Vol 1, tab 17A, Statement – Tactical Operator 22, p.10

⁵⁸ Exhibit 1, Vol 1, tab 17A, Statement – Tactical Operator 22, p.10

⁵⁹ Exhibit 1, Vol 1, tab 20, Statement – Tactical Operator 2, p.13

⁶⁰ Exhibit 1, Vol 1, tab 15, Statement – Tactical Operator 2, p.5

⁶¹ Exhibit 1, Vol 1, tab 19, Statement – Tactical Operator 40, p.16; Exhibit 1, Vol 1, tab 18, Statement – Tactical Operator 34, p.45

⁶² Exhibit 1, Vol 1, tab 18, Statement – Tactical Operator 34, pp.5-6

then yelled out, “*Drop it now mate*”.⁶³ Mr Croft did not drop what he was holding and Tactical Operator 2 fired a single less-lethal bean bag round from his [REDACTED] into Mr Croft’s lower stomach area.⁶⁴ This caused Mr Croft to drop the item he was holding and allowed Tactical Operators 40 and 92 to apprehend him. However, he continued to violently resist and he was subsequently tasered once by Tactical Operator 40 into his left shoulder.⁶⁵ This occurred at 2.15 pm.⁶⁶ Mr Croft was then placed in plastic handcuffs by Tactical Operator 92. The item Mr Croft was holding was a blue handled gas lighter with a metal neck.⁶⁷

Medical attention provided to Ms Croft

113. After the call was made for medical assistance for Ms Croft, Tactical Operator 42 (who was a medic) maintained observations on Ms Croft as Tactical Operator 22 monitored her pulse.⁶⁸
114. Mark Hill, a Paramedic with St John Ambulance who had HAZMAT training,⁶⁹ attended to Ms Croft with Department of Fire and Emergency Services (DEFS) officers. Mr Hill and the DEFS officers were already in attendance a short distance from the property. They were attired in breathing apparatus (BA) when they treated Ms Croft.
115. Mr Hill observed that Ms Croft was conscious and breathing; however she was not complying with requests being made by the tactical operators who still had to hold her down.⁷⁰ She repeated to Mr Hill that she wanted to die.⁷¹

⁶³ The statement from Tactical Operator 2 says that he yelled at Mr Croft to “*Drop the weapon!*”: Exhibit 1, Vol 1, tab 15, Statement – Tactical Operator 2, p.5. However, on the audio recording the words heard were “*Drop it now mate*”.

⁶⁴ Exhibit 1, Vol 1, tab 15, Statement – Tactical Operator 2, p.5

⁶⁵ Exhibit 1, Vol 1, tab 19, Statement – Tactical Operator 40, p.17

⁶⁶ This time is obtained from the data download of the taser used by Tactical Operator 40 which also confirmed it was deployed once: Exhibit 1, Vol 1, Tab 8, Report of the Internal Affairs Unit by Det. Snr Sgt Jamie Boryczewski dated 2 November 2020, p.71

⁶⁷ A photograph of this gas lighter was taken in situ: Exhibit 1, Vol 1, tab 13B, Photograph 8

⁶⁸ Exhibit 1, Vol 1, tab 17, Statement – Tactical Operator 22, p.65

⁶⁹ Specialised training to treat people exposed to hazardous materials.

⁷⁰ Exhibit 1, Vol 1, tab 23, Statement – Mark Hill, p.7

⁷¹ Exhibit 1, Vol 1, tab 23, Statement – Mark Hill, p.9

116. Ms Croft would not allow Mr Hill to place a cardiac monitor on her finger to determine her pulse as she kept placing her hand into a fist. Her resistance only ceased once there was a drop in her conscious state.⁷²
117. After it was deemed safe to do so, other paramedics that were not wearing BA took over. A scientific officer from DFES was able to determine from readings near Ms Croft's mouth that she may have consumed hydrogen cyanide and/or phosphine. She was then given atropine for the phosphine ingestion and Cyanokit for her potential exposure to cyanide.⁷³
118. Once Ms Croft had been given these drugs and was stabilised she was conveyed to RPH by a Complicated Patient Ambulance Transport vehicle (C-PAT) which had earlier attended the vicinity of the property for this purpose.⁷⁴ The C-PAT vehicle left the property at 3.40 pm and arrived at the Emergency Department of RPH at 4.08 pm. It travelled as a Priority One (the highest priority).⁷⁵
119. Ms Croft could not be taken to the nearest hospital (Armadale-Kelmscott Memorial Hospital) as it did not have the clinical support to treat a patient who had been exposed to chemicals.⁷⁶
120. Medical notes from the Emergency Department at RPH documented that at 4.16 pm Ms Croft was agitated with bluish discolouration of the skin (cyanosis). She had no detectable blood pressure or oxygen saturations and her heart rate was 110. She was given midazolam, fluids and was intubated. A nasogastric tube was inserted to aspirate her stomach contents and her skin was decontaminated with soap and water.
121. Ms Croft, however, was very critically ill. She rapidly developed an insufficient blood flow to the body's organs (hemodynamic collapse). Resuscitation was commenced and she was given sodium thiosulfate,

⁷² Exhibit 1, Vol 1, tab 23, Statement – Mark Hill, pp.9-10

⁷³ Exhibit 1, Vol 1, tab 23, Statement – Mark Hill, p.11

⁷⁴ A C-PAT vehicle is designed to carry patients who have been exposed to chemicals and its lay out minimises the risk of anyone else being exposed and affected: Exhibit 1, Vol 1, tab 23, Statement – Mark Hill, p.4

⁷⁵ Exhibit 1, Vol 1, tab 23, Statement – Mark Hill, pp.11-12

⁷⁶ ts 12.11.20 (Hill), p.376

methylene blue and sodium bicarbonate to treat the poison she had ingested. She then developed a very slow heart rate (bradycardia) but was unresponsive to atropine⁷⁷ and large doses of adrenaline. Her lactate levels continued to rise which indicated her body organs were becoming dysfunctional. When Ms Croft could not be resuscitated she was certified life extinct at 5.36 pm on 21 January 2019.⁷⁸

CAUSE AND MANNER OF DEATH

Cause of Death

122. Dr Clive Cooke, a forensic pathologist, conducted an external post mortem examination on Ms Croft's body on 24 January 2019. Because of the dangers to the forensic pathologist and mortuary staff of being exposed to toxic gas from Ms Croft's body an internal post mortem examination was not undertaken.⁷⁹ Dr Cooke was of the view that an external post mortem examination was appropriate as the cause of death would be established by a toxicological analysis.⁸⁰
123. The toxicological analysis found a level of aluminium in the amount of 0.4 mg/kg in Ms Croft's non-preserved blood sample and 0.3 mg/kg in her preserved blood sample. There was a phosphorus level in the non-preserved blood sample of 1660 mg/kg and 1250 mg/kg in the preserved blood sample.⁸¹
124. The testing of Ms Croft's stomach contents confirmed the presence of phosphide gas which is formed from aluminium phosphine. The presence of cyanide was not confirmed in either the sample from Ms Croft's stomach contents or in the toxicological analysis.⁸²

⁷⁷ In addition to treating poisonings, atropine is also used to treat bradycardia.

⁷⁸ Exhibit 1, Vol 1, tab 1, P100 – Report of Death

⁷⁹ ts 12.11.20 (Dr Cooke), p.340

⁸⁰ Exhibit 1, Vol 1, tab 3, Pathologist's Recommendation for External PM

⁸¹ Exhibit 1, Vol 1, tab 4D, Toxicology Report – Final Report dated 8 March 2019. Although there was a further Toxicology Report dated 13 August 2019 that amended the Final Report, those amendments were restricted to the literature cited in the previous report. The levels of aluminium and phosphorus in Ms Croft's system remained unchanged.

⁸² Exhibit 1, Vol 1, tab 4E, Email from Dr David Brown (Senior Chemist and Research Officer with the ChemCentre) to Counsel Assisting dated 11 March 2020

125. On 14 March 2019, after reviewing the results of the toxicological analysis, Dr Cooke expressed the opinion that the cause of Ms Croft's death was "*phosphine toxicity*".⁸³
126. Dr Cooke was of the view that Ms Croft had ingested pellets containing aluminium phosphide which are sold as a commercial product called Phostoxin. This product is used for fumigation, particularly of farm silos containing grain.⁸⁴ Dr Cooke further testified:⁸⁵

It doesn't take many tablets to cause significant problems if anyone ingests these tablets...just taking as little as half or one tablet can give a fatal outcome...the aluminium phosphide in contact with the stomach where there is hydrochloric acid in the stomach, or indeed in contact with air produces a very toxic gas – phosphine gas, and that's the – really the toxic agent. The gas itself may have an odour to it, said to be of garlic or decaying fish sort of odour. It's very toxic on the body. If it's inhaled it causes very severe lung damage in the lung tissue. If tablets of Phostoxin are swallowed and ingested into the stomach, then the phosphine gas gets throughout the body. It sort of permeates through the stomach wall, the intestine wall and spreads itself through the body. And that can be dangerous to anyone who is standing close by, of course, because the body can what's called off-gas. It can off-gas the phosphine gas through the skin – through the pores of the skin, coming away from the body. It's a very toxic agent at the cellular level. I think it affects the cellular enzymes. It can cause very severe organ damage, particularly to the lungs and the heart, but also any of the other organs as well. And someone can easily – very readily die just – as I say, just from taking half or one of these tablets.

127. Dr Cooke also confirmed that there was no known antidote for phosphine gas and that aluminium phosphide is an entirely different chemical from cyanide.⁸⁶
128. Dr Cooke's view that Ms Croft had ingested a fatal amount of fumigation pellets had been confirmed by the results of an analysis by Mr Nigel West, a Field Liaison Chemist from the Emergency Response Team section of the ChemCentre. Mr West analysed one of the pellets that had been in the canister held by Ms Croft. The results of that analysis confirmed the presence of aluminium and phosphorus as major elements in the composition of the sample tablet. Mr West concluded, "*The appearance and chemical analysis of the solid material within the*

⁸³ Exhibit 1, Vol 1, tab 3A, Supplementary Post Mortem Report dated 14 March 2019

⁸⁴ ts 12.11.20 (Dr Cooke), p.339

⁸⁵ ts 12.11.20 (Dr Cooke), pp.339-340

⁸⁶ ts 12.11.20 (Dr Cooke), p.340

*metal container were consistent with those expected with aluminium phosphide”.*⁸⁷

129. I accept and adopt the conclusion of the cause of death as expressed by Dr Cooke. I find that the cause of Ms Croft’s death was phosphine toxicity.

Manner of Death

130. I find that Ms Croft’s death occurred when she deliberately ingested one or more fumigation pellets which she knew would be highly toxic with the intention of ending her life.

131. Accordingly, I find that her death occurred by way of suicide.

ACTIONS OF PERMANENT CUSTODIANS LTD PRIOR TO 21 JANUARY 2019

132. When making my assessment of the actions by entities and individuals prior to and on 21 January 2019 I am mindful not to insert hindsight bias into my assessment of the appropriateness of those actions.⁸⁸ What may be clear in hindsight is not often clear before the fact.

133. As referred to above, on 21 December 2018 the solicitors for Permanent Custodians Ltd requested the Sheriff’s Office to enforce the Order. That was nearly four months after the Order had been issued and three months after the initial scheduling for the eviction on 21 September 2018 which the solicitors had requested not take place.

134. I am of the view that Permanent Custodians Ltd acted in an appropriate manner when it instructed its solicitors to make that request to the Sheriff’s Office on 21 December 2018. By that stage it had been 14 months since the Writ which led to the Order was served on Mr and

⁸⁷ Exhibit 1, Vol 1, tab 5, ChemCentre – Emergency Response Incident/Chemical Analysis Report of Nigel West dated 30 January 2019

⁸⁸ Hindsight bias is the tendency after the event to assume the events are more predictable or foreseeable than they really were: *The Australasian Coroners Manual*, Hugh Dillon and Marie Handley, 2015, p.10

Ms Croft. In all the circumstances it cannot be said that Permanent Custodians Ltd acted with an undue haste.

135. As outlined above, Mr Croft had advised Sergeant Reynolds during the negotiations that he had arranged a private sale of the property with a buyer who had agreed the Crofts could remain in the house until they died. There was, in fact, a Contract of Sale for the property between the Crofts and Acquaworks Pty Ltd dated 21 January 2019 (the Contract).⁸⁹ Acquaworks Pty Ltd was a bottled water supplier that intended to use the property to extract and sell water from the property's bores. The purchase price was \$1,875,000.00. Clause 16 of the Contract specified that the buyer would agree that the sellers could occupy the residential premises on the property rent free for a period of up to five years from the settlement date, "*or such other date as agreed to in writing by the Parties*".⁹⁰

136. At 12.31 pm on 20 January 2019 Mr Croft emailed Lifeline WA, a suicide prevention service. That email included the following:⁹¹

I have signed a contract to sell our family home to an investor and at the same time remain in the house as though nothing has changed. These funds will be available within a couple of months and will be enough to pay out the outstanding mortgage plus their extra charges amounting to an extra two to three hundred thousand dollars over what we have borrowed. I am prepared to pay this amount plus the extra charges and have offered to do this in writing to the Mortgagee on the condition they wait a month or so, they have refused and gained Ex-parte Order against us while I was in hospital undergoing an operation for cancer, something they knew about...

If the Mortgagee evicts us as soon as tomorrow morning at nine am instead of treating us with respect and waiting a month or so, as I said to Lifeline on the phone today, "My wife will kill herself", if this happens I will do this also as I explained on the phone.

137. At 2.56 pm on 20 January 2019, Mr Croft attached that email to an email he sent to two solicitors at the firm that was acting for Permanent Custodians Ltd and to the Deputy Sheriff's Officer who had attended the

⁸⁹ Exhibit 1, Vol 2, tab 12, Statement – Rodney Croft, attachment RKC-4.

⁹⁰ Exhibit 1, Vol 2, tab 12, Statement – Rodney Croft, attachment RKC-4, p.16. There was no specific clause in the Contract that permitted the Crofts to reside on the property until they died as Mr Croft had asserted to police on 21 January 2019.

⁹¹ Exhibit 1, Vol 2, tab 12, Statement – Rodney Croft, attachment RKC-2

property on 2 January 2019. The subject heading in this email was, “*Phone call and email to Lifeline by Rod Croft*”. The message in the email simply said, “*FYI*”.⁹²

138. Permanent Custodians Ltd did not stay the execution of the Order prior to the attendance of the Sheriff’s Officer and police at 9.00 am on the next day. After carefully considering the evidence before me, I am of the view that it was not inappropriate for Permanent Custodians Ltd to continue with the execution of the Order. I should also add that I remain of that view even if Permanent Custodians Ltd had prior notice from its solicitors of Mr Croft’s email to them.
139. My reasons are as follows. First, there is no evidence before me that Mr Croft actually forwarded a copy of the Contract to the solicitors acting for Permanent Custodians Ltd. In his email to Lifeline on 20 January 2019 he stated, “*I am happy to show the signed Contract to sell our home and to pay them out to someone in authority who can possibly help us with this...* ”. For reasons only known to Mr Croft, he did not attach a copy of the signed Contract in his email to the solicitors on 20 January 2019 even though they would clearly be “*someone in authority who can possibly help us with this*”.⁹³
140. Secondly, the email sent to the solicitors that attached the email to Lifeline was forwarded just before 3.00 pm on a Sunday. It is likely neither solicitor read it on that day. There is also nothing in the subject heading of the email or in the body of the email indicating that it was urgent or that it contained the highly relevant information that a signed contract now existed for the sale of the property that would easily meet the amount claimed by Permanent Custodians Ltd.
141. Nevertheless what the email to Lifeline did make clear was that Mr Croft had stated he and Ms Croft would kill themselves if the eviction went ahead the following morning. A separate matter arises as to the appropriateness of Permanent Custodians Ltd to not instruct its solicitors to stay the eviction once the stand-off between the Crofts and the police

⁹² Exhibit 1, Vol 2, tab 12, Statement – Rodney Croft, attachment RKC-2

⁹³ Although the Contract is dated 21 January 2019, if Mr Croft’s assertion is accepted as accurate then it must have been signed prior to that date.

occurred the following morning. I will address that matter later in my finding.

ACTIONS OF THE SHERIFF'S OFFICE ON 21 JANUARY 2019

142. I find that the actions of Ms Ingilizovska on behalf of the Sheriff's Office when she attended the property on 21 January 2019 were appropriate.
143. Ms Ingilizovska's actions in arranging the attendance of police officers to assist with the serving of the Order were entirely appropriate given the earlier altercation involving Mr Croft and another Deputy Sheriff on 2 January 2019. The memorandum of understanding regarding the enforcement services provided by the Sheriff's Office that exists between the Department of Justice and Western Australia Police (the MOU) covers the exact situation that Ms Ingilizovska had anticipated.⁹⁴ Clause 4.2.4 of the MOU is titled "Assistance to Contract Bailiffs (Protection)" and provides:⁹⁵

WA Police undertakes to provide assistance and protection for Bailiffs and Sheriff's Officers across the State when violence or aggressive confrontation is expected or encountered in the course of service and execution of court processes. Bailiffs and Sheriff's Officers include all persons appointed by the Sheriff of Western Australia.

144. I am also satisfied that the content of Ms Ingilizovska's limited verbal communications with Mr Croft was appropriate. It was evident from the material provided by Ms Ingilizovska that her training included the areas of mental illness, dealing with difficult situations and conflict strategies.⁹⁶ Her attempts to de-escalate the situation with Mr Croft indicated to me that the training she had received in these areas had been adequate.

⁹⁴ Exhibit 9 – Memorandum of Understanding between the Department of Justice and Western Australia Police: Delivery of Bailiff's and Sheriff's Officer Enforcement Services in Western Australia

⁹⁵ Exhibit 9 – Memorandum of Understanding between the Department of Justice and Western Australia Police: Delivery of Bailiff's and Sheriff's Officer Enforcement Services in Western Australia, p.7

⁹⁶ Exhibit 1, Vol 1, tab 10D – Certificates of Completion by Ms Ingilizovska

145. I accept Ms Ingilizovska's evidence that the Sheriff's Office had no discretion regarding the seizure of the property⁹⁷ and that once the police were in attendance they were in control of "*the entire situation*".⁹⁸
146. I also accept Ms Ingilizovska's evidence that the only basis upon which the eviction could be stayed was if the creditor's agent in attendance (in this case Mr Shaw) received instructions from the creditor to stay the eviction. That would require an email from the creditor's solicitors to be forwarded to the Sheriff's Office. Ms Ingilizovska stated that could happen quite quickly; even when a representative of the Sheriff's Office was already at the property and had not yet seized possession.⁹⁹
147. With respect to the potential stay of the eviction in this matter, Ms Ingilizovska had heard Mr Shaw taking instructions over his mobile telephone. Although she heard Mr Shaw providing updates as to what was happening (which included the stand-off with police and the threats by the Crofts to kill themselves), the instructions were to not stop the eviction process.¹⁰⁰
148. After Ms Croft had been taken to hospital Ms Ingilizovska was granted permission by police to enter the property. She then formally took possession of the property and delivered it to Mr Shaw on behalf of the judgment beneficiary.¹⁰¹

ACTIONS OF MEMBERS OF THE WA POLICE FORCE ON 21 JANUARY 2019

Uniformed police

149. I commend the actions of Constable Heard and Constable Gibson in their attempts to defuse the situation when they attended the property. Once those attempts were unsuccessful it was entirely appropriate for these two police officers to withdraw and contact the TRG given what they

⁹⁷ ts 10.11.20 (Ingilizovska), p.168

⁹⁸ ts 10.11.20 (Ingilizovska), p.141

⁹⁹ ts 10.11.20 (Ingilizovska), p.143

¹⁰⁰ ts 10.11.20 (Ingilizovska), pp.165-166

¹⁰¹ ts 10.11.20 (Ingilizovska), p.168; Exhibit 10A – Form 36 Property (Seizure and Delivery) Order from Perth Supreme Court dated 23 August 2018, p.2

had observed and what they were told by Mr Croft. As stated by Constable Heard:¹⁰²

We thought there might have been a firearm sitting on the bonnet of the loader and he is making comments the property is rigged up and we are all going to go up. Therefore, a pretty serious thing to say to a police officer I guess.

150. I also accept Constable Heard's risk assessment of the situation.¹⁰³

Definitely had potential to escalate. Mr Croft was very agitated and aggressive with us. Yes, we definitely felt like [the] best course of action was to withdraw and have Tactical Response Group attend.

151. I also commend the actions of First Class Constable McDonald who arrived at the property shortly after and communicated with Mr Croft until Sergeant Reynolds was in a position to commence his negotiations.

TRG negotiator

152. As already outlined above, Sergeant Reynolds had a wealth of experience in negotiation training and operational negotiations. Having listened to the audio recording of his negotiations with the Crofts, I am generally satisfied with the manner in which he conducted those negotiations.

153. I do find, however, that there should have been a greater exchange of information between police officers involved in this matter; particularly between those officers responsible for intelligence gathering and Sergeant Reynolds. When asked whether there could have been a better sharing of information, Sergeant Reynolds answered, "*Possibly, yes.*"¹⁰⁴

154. Initially, Sergeant Reynolds gave evidence that it was his understanding the Order could not be called off by anyone other than the Court¹⁰⁵ and that he did not know the Sheriff could have called it off if she had received certain instructions.¹⁰⁶

¹⁰² ts 10.11.20 (Heard), p.179.

¹⁰³ ts 10.11.20 (Heard), p.110

¹⁰⁴ ts 11.11.20 (Reynolds), p.214

¹⁰⁵ ts 11.11.20 (Reynolds), p.200

¹⁰⁶ ts 11.11.20 (Reynolds), p.202

155. As I have already outlined above, Elise Croft can be heard on the audio recording advising Sergeant Reynolds that the creditor was able to stay the Order if it wanted to. After Sergeant Reynolds had the opportunity of listening to the relevant passage from the audio recording at the inquest he agreed Elise Croft did tell him there was a possibility that the Order could be called off.¹⁰⁷ I also accept Elise Croft's evidence that in a separate discussion she had with Senior Constable Gray she could not get this police officer to agree that the eviction could be unilaterally called off by the creditor.¹⁰⁸
156. Unfortunately no one from the police who were in attendance during the negotiations actually spoke to Ms Ingilizovska about any alternative procedures that could be put in place by the Sheriff's Office.¹⁰⁹ I agree with Sergeant Reynolds' evidence that the Sheriff's Officer should have been talking with the police who were responsible for gathering intelligence as to what could and could not be done.¹¹⁰
157. It was also unfortunate that Sergeant Reynolds was not made aware that Ms Ingilizovska and Mr Shaw were a short distance from the property. I agree with Sergeant Reynolds that the police officers who were gathering intelligence should have also told him that.¹¹¹
158. As no police officer involved in the negotiation stage of the TRG operation spoke to Ms Ingilizovska or, it would appear, Mr Shaw, neither of them had the opportunity to explain that the eviction could be stayed very quickly. Hence, Sergeant Reynolds was left with the impression from his conversation with Elise Croft that if an agreement for a stay of the eviction could be made it would still need "*to go before the Court*".¹¹² Although it should be noted that Elise Croft did not inform Sergeant Reynolds any stay of the Order would need to involve the Court.

¹⁰⁷ ts 11.11.20 (Reynolds), p.197

¹⁰⁸ ts 10.11.20 (Elise Croft), pp.90-91

¹⁰⁹ ts 11.11.20 (Ingilizovska), p.157

¹¹⁰ ts 11.11.20 (Reynolds), pp.203-204

¹¹¹ ts 11.11.20 (Reynolds), pp.193-194

¹¹² Exhibit 5, Sergeant Reynolds' audio recording of his negotiation and other conversations on 21 January 2019

159. It was appropriate (and indeed necessary) for Sergeant Reynolds to be not only advised of what Elise Croft had told police but to also directly speak to her. Elise Croft clearly had relevant and potentially valuable information to pass onto Sergeant Reynolds that could assist in the negotiation process. With the considerable benefit of hindsight it could be said more direct use of Elise Croft ought to have been made. However, I need to be mindful (as Sergeant Reynolds had to be on the day) as to the conditions that applied once the formal negotiation process has commenced. One important condition was that, *“Non-Trained police or third parties should not be allowed to intervene in a negotiation without prior consultation with the Negotiation Coordinator or Team Leader”*.¹¹³ It is my understanding that Sergeant Reynolds assumed both of these roles, or the equivalent of them on the day.¹¹⁴
160. It is to be expected that the use of a third party intervenor would rarely be used. Given the tense environment that existed at the property I can readily understand the reluctance of Sergeant Reynolds to directly engage Elise Croft in the negotiation process. I note it did not appear that either Mr or Ms Croft requested they speak to their daughter.
161. I also note that Elise Croft’s efforts to arrange a stay of the eviction were hampered by the fact that she was unaware the contract for the sale of the property had been signed. She was therefore concentrating on the claim made by Mr Croft for compensation arising from the failed saw mill business as a way to prevent the eviction taking place. As she testified at the inquest:¹¹⁵
- I didn’t realise the contract had been signed. I didn’t know that at the time otherwise that would have probably been a different way that I might have handled it.
162. When Inspector Biggs was advised that Elise Croft was not able to contact the solicitors the decision was made to enact the Plan.¹¹⁶
163. Even if Elsie Croft had been able to make contact with the solicitors, I have some considerable reservation the solicitors’ instructions from

¹¹³ Exhibit 1, Vol 1, Tab 14, Statement – Sergeant Reynolds, p.5

¹¹⁴ Exhibit 1, Vol 1, Tab 14, Statement – Sergeant Reynolds, p.8

¹¹⁵ ts 10.11.20 (Elise Croft), p.93

¹¹⁶ ts 11.11.20 (Reynolds), pp.198-200

Permanent Custodians Ltd would have been to stay the eviction on the basis that there was a possible compensation payout for Mr Croft regarding a civil claim payable on an unspecified date sometime in the future.

164. As can be heard from the audio recording and the evidence of Tactical Operator 40, Sergeant Reynold's communication that Ms Croft "*has got nothing in her hands*" led to the implementation of the Plan. Sergeant Reynolds conceded in his evidence that Ms Croft may have been holding the canister that contained the pellets at the time he conveyed that information.¹¹⁷
165. On the evidence before me, I am able to find that Ms Croft was either holding or had in her possession, the canister in the minutes leading up to her apprehension. However, I make no criticism of Sergeant Reynolds' failure to notice that. He was some distance from Ms Croft when he conveyed that message and it would have been difficult to see the canister given its size.¹¹⁸

TRG operators

166. The Plan to apprehend the Crofts was clearly unsuccessful due to the death of Ms Croft. However, that fact alone does not mean those police involved in the forming and execution of the Plan ought to be criticised. All the relevant evidence requires consideration.
167. Ms Croft repeatedly asserted to police that she would kill herself if they came onto the property. Rightly so, the police in attendance did not dismiss those assertions as idle threats. Sergeant Reynolds testified that he genuinely believed that the Crofts would commit self-harm if police entered the property.¹¹⁹ He could see the Crofts were under an immense amount of stress and that they were, "*At their wits end*".¹²⁰ Nevertheless, the TRG organised the Plan to enter the property and apprehend the Crofts which was implemented at about 2.12 pm. For the following

¹¹⁷ ts 11.11.20 (Reynolds), p.210

¹¹⁸ ts 11.11.20 (Reynolds), p.210

¹¹⁹ ts 11.11.20 (Reynolds), p.181

¹²⁰ ts 11.11.20 (Reynolds), pp.182-183

reasons, and notwithstanding the tragic outcome, I find that the decisions made regarding the Plan and its timing were appropriate.

168. I find that the TRG, through Sergeant Reynolds' negotiations, had exhausted all reasonable attempts to have the Crofts leave the property voluntarily. Whether the Order was going to be enforced or stayed, I find the police were required to apprehend the Crofts under the *Mental Health Act 2014* (WA). As Sergeant Reynolds testified:¹²¹

...we've got a duty of care as police officers to people. And it's – the way I look at it was, like, dealing with a person that was on a bridge and was going to jump. If I get called to talk to them and if they say to me, "If you go away I won't jump", I can't leave. We can't leave because they are under our control. If we walk away and they jump, well, we're still back in a Coroner's Court explaining why we walked away and why we did not pursue. So we are caught between a rock and a hard place.

169. Section 6(1) of the *Mental Health Act 2014* (WA) states:

A person has a mental illness if the person has a condition that –

- (a) is characterised by a disturbance of thought, mood, volition, perception, orientation or memory; and
- (b) significantly impairs (temporarily or permanently) the person's judgment or behaviour.

170. I am satisfied that Ms Croft's behaviour and comments in the presence of police demonstrated that she had a disturbance of thought that significantly impaired her judgment and behaviour at the time. I am also satisfied the behaviour of Mr Croft met the criteria of a mental illness as defined in section 6(1).

171. Section 156(1) of the *Mental Health Act 2014* (WA) provides:

A police officer may apprehend a person if the officer reasonably suspects that the person –

- (a) has a mental illness; and
- (b) because of the mental illness, needs to be apprehended to –

¹²¹ ts 11.11.20 (Reynolds), p.193

- (i) protect the health or safety of the person or the safety of another person;
or
- (ii) prevent the person causing or continue to cause serious damage to property.

172. For the purposes of apprehending the person, police may “*enter any premises where the person is reasonable suspected to be*”.¹²²
173. Section 156(3)(a) of the *Mental Health Act 2014 (WA)* states that police must, as soon as practicable after apprehending the person, arrange for the person to be assessed by a medical practitioner or an authorised mental health practitioner. The relevant section of the Police Manual provides that where transport is required, a consideration must be given to using an ambulance as the preferred method for the purpose of transporting the person.¹²³
174. At the inquest Tactical Operator 40 explained the factors why the decision was made to apprehend the Crofts:¹²⁴

His [Mr Croft’s] behaviour during the day ... was extremely volatile. The mental state of Mr and Ms Croft, the affect that Mr Croft’s behaviour was having on Ms Croft, that it was told to me that they had a suicide pact, that ... Mr Croft was not going to hand over the property by any means and if we entered, they were going to both commit suicide, there was no cooperation from Mr Croft with police to, obviously, identify, you know, where that cyanide was on Ms Croft. He didn’t attempt to remove that from Ms Croft at any stage. So I knew we were dealing with a highly volatile and imprecise situation ... so I then had two persons, one suicidal with the means and access to, you know, to carry out that threat. And I also had another person who had made threats against himself of self-harm but also against any person who entered the property. So as you can see, it was an extremely stressful and volatile situation. And I suppose ... it was a bit of a tinder box, really. So the longer we left that, I believe that we possibly could have lost two persons that day.

175. I find that the police were required to apprehend the Crofts under the provisions of the *Mental Health Act 2014 (WA)* once it became clear they were not going to voluntarily leave the property whilst the police were in attendance. At no stage during the negotiations did Mr and Ms

¹²² Section 159(2)(a) of the *Mental Health Act 2014 (WA)*

¹²³ Exhibit 11, Police Manual – Mental Health 01.01, p.3

¹²⁴ ts 12.11.20 (Tactical Operator 40), p.317

Croft give any indication they were going to do that, even when directly asked by Sergeant Reynolds.

176. In those circumstances it was decided that the TRG would wait for an opportunity to apprehend the Crofts that would reduce the likelihood of any serious injury to any person.¹²⁵
177. The preferred circumstances in which the Crofts were to be apprehended would be when *“They were both near the front of the property with nothing sighted in their hands”*.¹²⁶ Tactical Operator 40 testified that this scenario, *“was our highest chance of success of taking them into custody without any harm to any person”*.¹²⁷
178. I find that Tactical Operator 40 initiated the Plan at or about the time Sergeant Reynolds is heard on the audio recording stating, *“She has got nothing in her hands”*. This was at 2 hours 29 minutes 7 seconds into the recording and at about 2.12 pm. I accept the explanation of Tactical Operator 40 that this meant Ms Croft had nothing in her hands apart from the water bottle she had collected from Sergeant Reynolds.¹²⁸
179. I find that it was appropriate for Tactical Operator 40 to begin implementing the Plan at this time because of the information from Sergeant Reynolds and because the Crofts were in close proximity to each other. The problem confronting the TRG, however, was that this was an evolving and dynamic situation. As can be heard from the audio recording, Ms Croft went to and from the tractor where Mr Croft was located on several occasions in the 90 seconds after Sergeant Reynolds conveyed that information. Another 90 seconds passed before Ms Croft is heard shouting out her warning to Mr Croft that police were on the property. By then three minutes had elapsed since Sergeant Reynolds’ communication that she did not have anything in her hands. That was obviously not the situation when Ms Croft sighted the tactical operators from Bravo Team. She was holding the canister containing the

¹²⁵ Exhibit 1, Vol 1, tab 19, Statement – (Tactical Operator 40), p.12

¹²⁶ Exhibit 1, Vol 1, tab 19, Statement – (Tactical Operator 40), p.11

¹²⁷ ts 11.11.20 (Tactical Operator 40), p.275

¹²⁸ ts 11.11.20 (Tactical Operator 40), p.283

fumigation pellets and was able to bring it to her mouth before she was apprehended.

180. Tactical Operator 40 testified, *“If I was aware that Mrs Croft was in possession of that [the canister], there was no way we would have initiated or attempted to initiate her apprehension”*.¹²⁹ When asked why he answered, *“Well, obviously, her proximity to that container would have been – we would have had no chance of success. What I am saying, Your Honour, is that I truly believed the only thing she had access to an empty water bottle”*.¹³⁰
181. I accept that Tactical Operator 40 had that belief and, given the information conveyed to him by Sergeant Reynolds, it was a reasonable belief to have at the time. It was, however, a mistaken belief. If Ms Croft did not have ready access to the canister containing the pellets then Tactical Operator 40 was entitled to believe that the Plan, *“had a high degree of success”*.¹³¹
182. As I accept that Tactical Operator 40 believed Ms Croft was not holding the canister, there was no justification for him to abort the Plan once it was implemented and before Ms Croft sighted the tactical operators from Bravo Team. He did not have any evidence that Ms Croft was actually holding the canister prior to her apprehension by Bravo Team. Although Tactical Operator 40 had seen Ms Croft moments earlier holding something as she crouched down in front of a water tank, I accept his evidence that he thought she was filling up a water bottle.¹³²
183. It was extremely regrettable that the Plan was not only compromised by Ms Croft sighting the tactical operators from Bravo Team but that she was able to so quickly access the canister containing the fumigation pellets before her apprehension.

¹²⁹ ts 12.11.20 (Tactical Operator 40), p.313

¹³⁰ ts 12.11.20 (Tactical Operator 40), p.313

¹³¹ ts 12.11.20 (Tactical Operator 40), p.277

¹³² Exhibit 1, Vol 1, tab 19, Statement – Tactical Operator 40, p.14; ts 11.11.20 (Tactical Operator 40), pp.283-284. It is also apparent that Tactical Operator 40 was positioned about 70 metres from the location of the water tanks which would have made it difficult to identify exactly what Ms Croft was holding; Exhibit 8 – Google Maps image of the property with distance pin between the position of Tactical Operator 40 and the water tanks.

184. For me to now criticise the timing of the decision to implement the Plan would require the inserting of a considerable amount of hindsight bias. Accordingly, I find it was reasonable to initiate and then attempt to carry through the planned apprehension of Mr and Ms Croft, notwithstanding the outcome.
185. I also find that the actions of the TRG operators in their actual apprehension of the Crofts were appropriate.
186. In Ms Croft's case, I find it was necessary to effect an apprehension as quickly as possible given that she had begun putting one or more of the fumigation pellets into her mouth. The fact that she was brought to the ground was an unavoidable consequence of the urgency required. I also find that the attempts made by Tactical Operator 22 to remove any pellet residue from Ms Croft's mouth was not only appropriate but commendable. This included his attempt to force Ms Croft's mouth open which explained the bruising and small injuries that Dr Cooke sighted on Ms Croft's cheek and around her lips.¹³³ That bruising was not caused, as suggested by Mr Croft, by tactical operators discharging their firearms at her and him then seeing "*something bouncing off her right jaw*".¹³⁴
187. I also find it was appropriate for the tactical operators treating Ms Croft after her apprehension to use water on her face, notwithstanding the dangerous and toxic production of phosphine gas should the pellets make contact with water. I am able to make that finding as all the evidence before the police was that Ms Croft was in possession of cyanide. I therefore accept that the tactical operators had no expectation that the application of water could potentially cause harm to not only Ms Croft but also to themselves. As Dr Cooke testified, he did not believe cyanide had the same toxic type reaction to water as aluminium phosphide.¹³⁵

¹³³ ts 12.11.20 (Dr Cooke), p.341

¹³⁴ ts 10.11.20 (Rodney Croft), p.53. Mr Croft's evidence (also at ts 10.11.20, p.53) that when Ms Croft yelled out her warning to him the tactical operators "*instantaneously started firing. Bang, bang, bang, bang.*" is entirely inconsistent with the audio recording. There is only the sound of a single discharge of a firearm on the audio recording in the 25 seconds after Ms Croft's warning. That sound was the single discharge of the non-lethal bean bag round by Tactical Operator 2 that struck Mr Croft in the abdomen.

¹³⁵ ts 12.11.20 (Dr Cooke), p.343

188. It is important that I also note Dr Cooke's evidence at the inquest that even if there had been no application of water to Ms Croft's face, the catastrophic damage to her internal organs would still have caused her death.¹³⁶
189. I am also satisfied that the use of force by tactical operators in the apprehension of Mr Croft was appropriate. The evidence of the tactical operators regarding Mr Croft's considerable resistance to being apprehended is corroborated by the audio recording. Despite Mr Croft's evidence to the contrary, I am satisfied that he was holding a blue handled gas lighter with a metal stem just before the non-lethal bean bag round was discharged from the firearm held by Tactical Operator 2. I am satisfied Tactical Operator 2 had told Mr Croft to drop the gas lighter before that discharge and that Mr Croft failed to do so. Given the appearance of the gas lighter and the previous threats of violence made by Mr Croft towards police should they enter the property, I find the tactical operators' beliefs that it was a large screw driver or a knife were justified. As Mr Croft did not drop the gas lighter when he was clearly told to do so, I am satisfied that the discharge of a single non-lethal bean bag round to his abdomen was not an unreasonable use of force.
190. I am also satisfied that the single tasing of Mr Croft by Tactical Operator 40 was an appropriate use of force. I accept the evidence of the tactical operators that Mr Croft remained non-compliant and continued resisting even after he had been struck in the abdomen by the bean bag round. I do not accept Mr Croft's evidence that he was tasered three times.¹³⁷ Although I am prepared to accept he may have had a genuine belief he was tasered that many times, as Tactical Operator 40 conceded it "*possibly*" could feel like three separate tasers from the one discharge due to the number of probes.¹³⁸
191. I also do not accept Mr Croft's account that he was kicked and struck with the butt of a gun during his apprehension by the tactical operator

¹³⁶ ts 12.11.20 (Dr Cooke), p.342

¹³⁷ ts 10.11.20 (Rodney Croft), p.54

¹³⁸ ts 12.11.20 (Tactical Operator 40), pp. 307-308

who had discharged the non-lethal bean bag round (Tactical Operator 2).¹³⁹

192. I agree with the findings made by the Internal Affairs Unit investigator, Detective Sergeant Jamie Boryczewski, that there were no breaches of Police Policy or Police Force Regulations regarding the conduct of tactical operators from the TRG on 21 January 2019.¹⁴⁰

ACTIONS OF PERMANENT CUSTODIANS LTD ON 21 JANUARY 2019

193. As referred to earlier, I will address the matter of Permanent Custodians Ltd not staying the eviction on 21 January 2019 after the stand-off began between the police and the Crofts. Although a conclusion could be made with the considerable advantage of hindsight that it seemed Permanent Custodians Ltd was indifferent to the plight of Ms Croft on 21 January 2019, I am not satisfied this conclusion can be drawn when the conduct of Permanent Custodians Ltd is examined in the context of the day's events as they happened.
194. On the evidence before me, the police made no contact with Permanent Custodians Ltd or its solicitors to discuss the prospect of staying the eviction. Based on the evidence of Ms Ingilizovska, I am prepared to find that Mr Shaw was advising by telephone either the solicitors for, or the representatives of, Permanent Custodians Ltd of the situation at the property as it unfolded. However, I am of the view that it would be appropriate for the persons receiving that information to take the position that, as the police were now handling the situation, if a stay of the eviction was necessary then the police would either unilaterally make that decision or they would make contact with them.
195. I am therefore not prepared to make any finding of an adverse nature regarding the conduct of the Permanent Custodian Ltd to continue with the eviction on 21 January 2019. It is unfortunate that police did not undertake further enquiries regarding the option of having the eviction

¹³⁹ ts 10.11.20 (Rodney Croft), p.56

¹⁴⁰ Exhibit 1, Vol 1, Tab 8, Report of the Internal Affairs Unit by Det. Snr Sgt Jamie Boryczewski dated 2 November 2020

stayed. Communications with Ms Ingilizovska and Mr Shaw would have provided the necessary information in that regard and also contact details for Permanent Custodian Ltd or its solicitors.

196. Had police made contact with Permanent Custodian Ltd or its solicitors on 21 January 2019 advising that the eviction should be stayed and had that been opposed, then my finding as to the conduct of Permanent Custodian Ltd regarding its decision to pursue the eviction would be very different.

MATTERS RAISED IN CLOSING SUBMISSIONS

197. Both counsel for the interested parties took the opportunity to make closing submissions at the conclusion of the inquest. I will address some of the matters by Mr Lethbridge, counsel for Mr Croft. Other matters he raised have already been addressed in this finding.
198. One of Mr Lethbridge's primary submissions was that the stand-off could have been resolved without the implementation of the Plan if the eviction had been stayed.¹⁴¹ I have carefully considered that submission and concluded that there is insufficient evidence for me to make that conclusion; particularly when regard is had to the standard of proof required as cited by Dixon J in *Briginshaw* (supra). I base my reasoning on the following evidence.
199. First, I have regard to Mr Croft's equivocal evidence regarding that scenario. Although he said he would have allowed the police onto the property if the police had told him they had written confirmation that the eviction would be stayed for a week,¹⁴² he gave the following answers to questions asked by his counsel:¹⁴³

And are you, are you confident that you could have convinced Jan to not hurt herself - - ? - - - No. No.

--- in those circumstances? - - - No.

¹⁴¹ ts 12.11.20 (closing submissions of Mr Lethbridge), pp.395-398

¹⁴² ts 10.11.20 (Rodney Croft), p.80

¹⁴³ ts 10.11.20 (Rodney Croft), p.80

So not even if you, if you had that written guarantee that they weren't going to take your property today? - - - As I tried to point to out to His Honour earlier on, my wife's mistrust of the system was far too ingrained. She, she, she, I could probably have convinced her to. As long as they didn't take our property and they let her look after her animals and so on. And that's the thing she had, she was allowed to stay there. We could have, we could have de-escalated the situation. But that never arose.

200. Secondly, even if this scenario occurred police would have still been required to apprehend Ms Croft under the *Mental Health Act 2014* (WA). Ms Croft would not have been allowed to remain on the property, at least until such time she had been assessed by a medical practitioner or an authorised mental health practitioner.
201. Thirdly, it was accepted that the threat made by Ms Croft to ingest the fumigation pellets was if the police came onto the property or if they harmed her husband.¹⁴⁴ I note that Ms Croft's threat was never conditional on the eviction taking place.
202. As Mr Croft testified (at least initially) that he would have been unable to prevent Ms Croft from self-harming in this scenario, I am not prepared to accept Mr Lethbridge's submission that, "*In those circumstances, it's reasonable to believe she would have handed over the pellets*".¹⁴⁵
203. Mr Lethbridge also contended that police, and in particular Sergeant Reynolds, failed to ask the Crofts crucial information regarding the composition of the fumigation tablets.¹⁴⁶ To support that submission Mr Lethbridge relied on the evidence of Mr Hill, the paramedic with St John Ambulance.
204. Mr Hill's evidence was that shortly after arriving at the designated location near the property at 12.21 pm he was advised by Craig Telford, another specialist operations paramedic, that the two people on the property, "*had made mention of chemicals being present including*

¹⁴⁴ ts 12.11.20 (closing submissions of Mr Lethbridge), p.397

¹⁴⁵ ts 12.11.20 (closing submissions of Mr Lethbridge), p.398

¹⁴⁶ ts 12.11.20 (closing submissions of Mr Lethbridge), p.394

cyanide and phosphate".¹⁴⁷ In his evidence Mr Hill clarified that the chemical was understood to be organophosphate.¹⁴⁸

205. Because all the evidence from the police was that the Crofts only referred to what Ms Croft had in her possession as "*cyanide*",¹⁴⁹ I questioned Mr Hill regarding his evidence that Mr Telford had mentioned phosphate in the initial briefing.

206. Mr Hill agreed that he did not make a note at the time when Mr Telford told him the chemicals included phosphate and that he only first wrote down the conversation in his statement approximately one week later.¹⁵⁰ Although Mr Hill said that he had a reasonably clear memory that Mr Telford mentioned not just cyanide but also phosphate, he did clarify that with the following evidence¹⁵¹:

We were definitely – we were definitely concerned that there were, you know, organophosphates or fertiliser – type materials – in the – on the property we're going to be involved.

Right? - - - And I guess in our line of work we have to assume, you know, if there is certain chemicals, there is going to be other things as well.

I see. So, this may well have been an assumption made by Mr Telford - - - ? - - - Potentially, yes.

- - - that if there was cyanide - - - ? - - - I'm not sure where he got that exact information.

Yes. That was going to be my next question. I don't suppose you know this? - - - No. No. I believe he got his – he got his information from the police on the scene.

207. Based on the entirety of the evidence before me, I do not accept Mr Hill's comment that he believed Mr Telford had got this information from the police. I am confident in finding that the police would have only advised medical personnel in attendance that cyanide had been mentioned by the Crofts. That is consistent with all the evidence and

¹⁴⁷ Exhibit 1, Vol 1, tab 23, Statement – Mark Hill, pp.2-3

¹⁴⁸ ts 12.11.20 (Hill), p.367

¹⁴⁹ Similarly, Mr Croft admitted that he referred to the contents of the canister as "*cyanide*" on the day: ts 10.11.20 (Rodney Croft), p.51. He also agreed that Ms Croft said on the day that she had "*cyanide pills*": ts 10.11.20 (Rodney Croft), p.68

¹⁵⁰ ts 10.11.20 (Hill), p.371

¹⁵¹ ts 10.11.20 (Hill), pp.372

although Mr Lethbridge described Mr Telford's mention of phosphate as, "*somewhat surprising*",¹⁵² it is not surprising if that was the assumption made by the paramedics as cyanide had been mentioned and the property (being in a semi-rural location) is likely to have had other chemicals on it.

208. In those circumstances I do not accept Mr Lethbridge's submission that Sergeant Reynolds ought to have questioned Mr Croft further about the composition of the pellets. It was reasonable for Sergeant Reynolds to accept what Mr Croft had told him and there is merit in his answer to the question that he should have sought more information about the pellets when he stated, "*I didn't want to draw attention to it, to be honest*".¹⁵³
209. Despite Mr Croft's evidence to the contrary, I accept Sergeant Reynolds' evidence that Mr Croft never told him what the pellets were used for.¹⁵⁴

RECOMMENDATIONS

The use of body-worn cameras by tactical operators

210. The evidence of Mr Croft regarding the actions of the tactical operators who apprehended him and Ms Croft differed in many respects to the version of events given by the tactical operators. It became readily apparent to me during the course of the inquest that these conflicts in the accounts could be easily resolved if there was footage of the execution of the Plan. When the use of body-worn cameras was raised with Tactical Operator 40 during the inquest he advised that the West Australian Police Force (WAPF) were in the process of making enquiries into how body-worn cameras could be utilised by tactical operators.¹⁵⁵
211. At my request Ms Ellson, counsel for the WAPF, made enquiries as to the use of body-worn cameras by the TRG. By email dated 13 November 2020 to Counsel Assisting, Ms Ellson advised:¹⁵⁶

¹⁵² ts 12.11.20 (closing submissions of Mr Lethbridge), p.398

¹⁵³ ts 11.11.20 (Reynolds), p.221

¹⁵⁴ ts 11.11.20 (Reynolds), p.195

¹⁵⁵ ts 12.11.20 (Tactical Operator 40), p.305

¹⁵⁶ Email, K Ellson to R Collins, 13 November 2020

The TRG are considering Body Worn Camera (BWC) options and their application and suitability within the tactical policing environment.

The TRG are currently undertaking a three-month trial in a training environment (due to be completed 31 January 2021) to determine the suitability, practicality, benefits and impediments to TRG Operators wearing BWC.

On completion of the trial, recommendations will be provided to the WA Police Force Executive for their determination regarding the use of BWC by TRG Operators.

212. Ms Ellson provided an updated email more recently which read:¹⁵⁷

I am instructed that, since 31 December 2020, Tactical Response Group Operators now wear WA Police Force issued body worn cameras, when conducting their operations duties.

213. I commend the WAPF for this implementation. It was precisely the recommendation I intended to make. I anticipate that the footage from these body-worn cameras will not only be of assistance to any inquest into a death arising from a TRG operation but I expect it would also provide a valuable training tool for the TRG.

214. As I had indicated during the inquest, a coronial investigation and subsequent inquest would be primarily interested in the footage of the actual operation. Such footage is unlikely to involve any disclosure of details about the decision-making criteria, response times, resourcing, training or any other operational aspects of the TRG. Should the footage disclose such matters then a redaction and/or muting of the sound of any footage played at an inquest could resolve that issue.

Submissions from Elise Croft

215. During the course of her evidence at the inquest Elise Croft was asked if there could be extra support added to the system to assist people with mental health issues and who are under the sort of financial pressure that her parents were facing.¹⁵⁸ As this was a question Elise Croft was not

¹⁵⁷ Email, K Ellson to R Collins, 16 April 2021

¹⁵⁸ ts 10.11.20 (Elise Croft), pp.85-86

anticipating she was given the opportunity to prepare a written response. She provided that response by letter dated 10 December 2020.¹⁵⁹

216. I extend my appreciation to Elise Croft to make the time and effort to prepare that five page letter. I valued her input as she is in the rather unique position of being a lawyer who practises in commercial dispute resolution and who had parents with mental health issues involved in legal proceedings regarding the non-repayment of loans.
217. Elise Croft made the very relevant point that her parents, despite a severely compromised credit rating, were able to successfully obtain a loan in the order of \$900,000.¹⁶⁰ I would expect that Elise Croft's trust will be met by financial institutions when she made this observation:¹⁶¹

I trust that the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, which concluded 2 weeks after my Mother died, will encourage financial institutions (including second tier lenders) to be far more cognisant of the best interests of their customers.

218. I am of the view there is considerable merit in Elise Croft's suggestion that financial institutions record the details of the mortgagor's next of kin, or other trusted person, when a loan is taken out that is secured by the mortgagor's home. She further suggested that the mortgagor can authorise the financial institution to contact that person and, if necessary, disclose confidential information such as when the loan is in arrears or if any other significant step is to occur such as the Order that was served on her parents.¹⁶²
219. I would simply make some minor amendments to this proposal. First, that such an arrangement would be at the discretion of the mortgagor. However, the financial institution should be obliged to notify the mortgagor of this condition by having it inserted into the contract for the loan with the option for the mortgagor to accept it. Secondly, the financial institution need only contact the person who is nominated prior to commencing action to take possession of the mortgaged property. If

¹⁵⁹ Exhibit 13, Letter to Counsel Assisting from Elise Croft dated 10 December 2020

¹⁶⁰ Exhibit 13, Letter to Counsel Assisting from Elise Croft dated 10 December 2020, p.1

¹⁶¹ Exhibit 13, Letter to Counsel Assisting from Elise Croft dated 10 December 2020, p.1

¹⁶² Exhibit 13, Letter to Counsel Assisting from Elise Croft dated 10 December 2020, p.1

the financial institution was to make contact with the third party every time loan payments are in arrears then I fear that obligation could become too burdensome.

Recommendation

When granting a loan that is secured by the mortgagor's residential property, the financial institution should consider providing the mortgagor the option of nominating a third party who the financial institution is to contact, with authority to disclose to the third party any relevant confidential information regarding the loan, prior to commencing any legal proceedings to take possession of the mortgaged property.

220. Another proposal raised by Elise Croft is that financial institutions should have appropriately trained individuals who are focused on customer well-being, particularly in difficult times.¹⁶³ I would sincerely hope that such individuals already exist in financial institutions; particularly after the findings of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry.

221. After identifying various government bodies, organisations and schemes that assist people in her parents' predicament, Elise Croft wrote that, "*ideally, people in this position need a type of 'one stop shop' to organise, pay for and facilitate the unique combination of help they need*".¹⁶⁴

222. Elise Croft continued:¹⁶⁵

That led me to consider whether some sort of body could be set up to take on that role. If the employees of that body:

(a) took a holistic approach to the problems the mortgagor faces, managing their interaction with others, including:

¹⁶³ Exhibit 13, Letter to Counsel Assisting from Elise Croft dated 10 December 2020, p.3

¹⁶⁴ Exhibit 13, Letter to Counsel Assisting from Elise Croft dated 10 December 2020, p.4

¹⁶⁵ Exhibit 13, Letter to Counsel Assisting from Elise Croft dated 10 December 2020, pp.4-5

- (i) psychiatrists or other mental health professionals;
- (ii) financial planners;
- (iii) accountants;
- (iv) insolvency practitioners; and
- (v) lawyers.

and

(b) had reliable connections with suitable individuals within each of those professions,

it could maximise the prospect of a positive outcome for mortgagors, assisting them to regain control of their finances and recommence a positive participation in society. It also has the potential to lessen the burden on the legal system.

223. Such a body would be an ideal solution for people with the myriad of problems that Mr and Ms Croft faced. However, as Elise Croft identified, such a body would need to be well-resourced. And therein lies a difficulty. I anticipate that if I made a recommendation to that effect the response from Government would be there are already facilities (albeit a number of them) that are able to provide those services. Such a response would be entirely reasonable.
224. A more practical solution would be to provide better funding to those facilities so that they can extend their assistance to a wider section of the community. Such organisations would include the Australian Financial Complaints Authority, Consumer Credit Legal Service (WA), Lifeline WA, Law Access and the various community legal centres such as Community Legal WA and the Mental Health Law Centre. I am aware that the Government is already very cognisant of the submissions from many of these facilities that they be better resourced.

CONCLUSION

225. Ms Croft was a 64-year-old lady who was deeply troubled at the time of her death. Her home had been her sanctuary for nearly 30 years and the prospect of being evicted from it was one that drove her to tragically end her own life.

226. On the basis of the available evidence, it is clear that Mr and Ms Croft were struggling to meet their obligations regarding the large loan they had obtained in 2015. This had the effect of exacerbating their existing mental health issues. It is regrettable that more assistance was not given to them prior to 21 January 2019 to help them through a crisis they regarded as so distressing that they were prepared to take their own lives.
227. It was beyond the scope of the inquest to closely examine precisely what assistance was extended to the Crofts regarding their default on the 2015 loan and the consequential financial and mental health stressors. But given the terrible outcome the question remains whether more could have been done. In many inquests this question will be raised, although it does not mean that more should always be done. In this matter, I am firmly of the view that the concept of allowing the mortgagor the option to authorise the financial institution to contact their next of kin (or another trusted person) with permission to disclose confidential information before court action is to occur is a concept that financial institutions should consider introducing.
228. Many of us have a number in our mobile phone list of contacts that is identified as “ICE”¹⁶⁶ and the benefits of a similar contact number for a financial institution to access are obvious. For example, if Permanent Custodians Ltd contacted Elise Croft and disclosed what its intentions were before it obtained the Order then she could have had the opportunity to provide her highly stressed and emotional parents with some rational and objective advice. That contact with Elise Croft could have been repeated prior to 21 December 2018 which was the date the solicitors requested the Sheriff’s Office to proceed with the eviction.
229. I have found that the cause of Ms Croft’s death was phosphine toxicity after she deliberately ingested one or more highly toxic fumigation pellets. Her death occurred by way of suicide.
230. Although the actions of tactical operators from the TRG involved in the apprehension of Ms Croft were a causal contribution to her death, for the reasons I have outlined above I make no criticism of their actions

¹⁶⁶ Acronym for “In Case of Emergency”.

or the actions of any other police officer involved in the planning to apprehend the Crofts. They were all statutorily obliged to apprehend Mr and Ms Croft under the *Mental Health Act 2014* (WA).

231. Understandably, the impact of Ms Croft's death on her husband and her close relatives and friends is heart rending. The date of 21 January 2019 will forever be remembered as a profoundly sad day for these people.
232. Although the impact of Ms Croft's death on that day will never be as profound for the police officers involved, it was clear to me from the manner in which the tactical operators gave evidence at the inquest that they have obviously been affected by it. As Tactical Operator 22 stated:¹⁶⁷

...it was one of those jobs that I walked away from as a fairly long-serving police officer that it doesn't sit well with you. Not because of our actions, we tried to save Mrs Croft, but they – they were not bad people, they just had some bad decisions in life.

P J Urquhart

Coroner

11 May 2021

¹⁶⁷ ts 11.11.20 (Tactical Operator 22), p.251