



CORONERS COURT OF NEW SOUTH WALES

Inquest:	Into the deaths of Maria Claudia Lutz, Elisa Manrique, Martin Manrique, Fernando Manrique
Hearing dates:	8-11 April 2019
Date of findings:	17 May 2019
Place of findings:	State Coroners Court, Lidcombe
Findings of:	Deputy State Coroner E.Truscott
Catchwords:	Coronial Law – homicide – suicide – carbon monoxide gas – end of relationship family violence
File number:	Maria – 2016/00310113 Elisa – 2016/00310114 Martin – 2016/00310115 Fernando – 2016/00310084

<p>Representation:</p>	<p>Counsel Assisting: Mr A Casselden SC instructed by Ms C Skinner of Crown Solicitors Office</p> <p>BOC Pty Ltd: Mr S Beckett instructed by Piper Alderman Law</p> <p>Linfox (Aust.) Pty Ltd: Mr G Gemmell instructed by HWL Ebsworth</p> <p>Manrique Family: Mr D Spencer of Miller Noyce Lawyers</p> <p>Lutz family: Mr P Sutherland of DP Sutherland Solicitor</p>
<p>Findings:</p>	<p>Maria Claudia Lutz died between 16-17 October 2016 at 68 Sir Thomas Mitchell Drive, Davidson, NSW 2085 of carbon monoxide toxicity due to a known person, without her knowledge, deliberately dispersing carbon monoxide gas into the family home while she slept.</p> <p>Elisa Manrique died between 16-17 October 2016 at 68 Sir Thomas Mitchell Drive, Davidson, NSW 2085 of carbon monoxide toxicity due to a known person, without her knowledge, deliberately dispersing carbon monoxide gas into the family home while she slept.</p> <p>Martin Manrique died between 16-17 October 2016 at 68 Sir Thomas Mitchell Drive, Davidson, NSW 2085 of carbon monoxide toxicity due to a known person, without his knowledge, deliberately dispersing carbon monoxide gas into the family home while he slept.</p> <p>Fernando Manrique died between 16-17 October 2016 at 68 Sir Thomas Mitchell Drive, Davidson, NSW 2085 of carbon monoxide toxicity after deliberately exposing himself to carbon monoxide gas to cause his death.</p>
<p>Recommendations:</p>	<ol style="list-style-type: none"> 1. To the Secretary, Department of Health (Cth) I recommend that: <ol style="list-style-type: none"> a. the Secretary consider exercising her power under sections 52D and 52E of the <i>Therapeutic Goods Act 1989</i> (Cth) by her delegate, the Therapeutic Goods Administration, initiating a process for consultation with the Advisory Committee on Chemical Scheduling and the public to consider amending the Uniform Scheduling of Medicines and Poisons (“Poisons Standard”) by <ol style="list-style-type: none"> i. including carbon monoxide; and ii. adding carbon monoxide to Appendix J of the Poisons Standard.

	<p>2. To BOC Limited (“BOC”), I recommend that BOC consider:</p> <ul style="list-style-type: none"> a. providing additional measures to enable the assurance of End User Declaration compliance at the point of delivery; b. with reference to this case, include in the Driver Training Package: <ul style="list-style-type: none"> i. education about the legitimate use of carbon monoxide; and ii. A “Dynamic Risk Assessment” to involve the identifying of warning signs as to whether the gas is for a legitimate purpose (such as delivery of an industrial gas to a residential address) and taking appropriate action (such as call BOC’s Product Stewardship Manager) before completing a delivery. <p>3. To the Australia New Zealand Industrial Gas Association (“ANZIGA”), I recommend that:</p> <ul style="list-style-type: none"> a. ANZIGA continue to take steps to urge its members to implement controls on the supply of compressed carbon monoxide at both the point of sale and distribution, including by encouraging its members to implement: <ul style="list-style-type: none"> i. measures similar to the End User Declaration, Sensitive Chemicals Declaration and Product Stewardship Customer Screening Protocol implemented by BOC; and ii. specific training for drivers in relation to carbon monoxide, in similar terms as that recommended to BOC.
<p>Final Non-Publication Orders – s74(1)(b):</p>	<p>Detective Sgt Pooley statement (Vol 1 T27) paragraphs [46]-[52]</p> <p>Detective Claire Power (Vol 4 T92) paragraphs [10] - [12], [23]</p> <p>Detective Claire Power (Vol 4 T93) photographs 35 - 47</p> <p>Senior Constable Ryan Ratcliff (Vol 4 T94) paragraphs [16]-[32] and pp 1194-1197</p>

IN THE CORONERS COURT
LIDCOMBE
NSW

SECTION 81 CORONERS ACT 2009

REASONS FOR DECISION

Introduction

1. It is two and a half years since the tragic deaths of Maria (Claudia) Lutz and Fernando Manrique, and their children Elisa Manrique and Martin Manrique. They died at their home in Davidson as a result of carbon monoxide poisoning at some time between 11:30am on 16 October 2016 and 11:00am on 17 October 2016, when they were found deceased.
2. At the time of their deaths, Elisa and Martin were 11 and 10-years-old respectively. They were much loved by their family and their wider community, and in particular by Maria, who devoted herself to caring for their special needs. Teachers and friends fondly remember Elisa's talents as an artist and Martin's love for animal toys.
3. Maria and Fernando immigrated to Australia from Colombia in 2000. They made a life for themselves here, and friends and family report that Maria was grateful for the level of assistance that she received in caring for Elisa and Martin, which was greater than it would have been in Colombia.
4. Being separated from the rest of their family was no doubt difficult at times, never more so than at the time of their deaths. I wish to express my condolences to Maria's mother and father, Ernesto and Alicia Lutz, and her brother and sister-in-law, Alejandro and Vicky. I note that Fernando's parents have passed away, but I extend my condolences to his family as well.
5. Maria was an active member of the community at Elisa and Martin's school in Wahroonga. She volunteered at the canteen every second Monday, facilitated Mother and Fathers' Day Stalls, went on school excursions and

was Vice President of the Parents and Friends Association in 2015, among other contributions.¹ It is clear from the evidence that she was a cherished friend, including among the mothers of children at St Lucy's, who describe her as "resilient, strong, passionate, selfless and happy".² These friends have provided statements expressing their love for Maria and her children. They have also attended each day of this inquest.

The Coronial Process

6. The evidence suggests that Fernando, Maria, Elisa and Martin died as a result of carbon monoxide poisoning, which occurred after Fernando introduced carbon monoxide into the family home while the rest of the family slept. In these circumstances, an inquest is mandatory pursuant to s. 27(1)(a) of the *Coroners Act 2009*, which requires an inquest "if it appears to the coroner concerned that the person died or might have died as a result of homicide".
7. The purpose of an inquest is to determine the date, place, manner and cause of a person's death, and I have a statutory obligation to record those matters. In looking at manner and cause of death, a coroner may examine not only the physical and immediate cause but also the factors that may have caused or contributed to the circumstances of the death.
8. A secondary, but equally important function of the coroner is governed by section 82 of the Act, which empowers a coroner to make any recommendations that are considered "necessary or desirable" in relation to the death, including on matters of public safety.
9. The ultimate purpose of an inquest is to answer two questions:
 - a. how and why did these people died; and
 - b. is there anything that can reasonably be done to prevent someone else from dying in a similar manner in the future?
10. An inquest is not designed to apportion blame. Unlike civil or criminal law, it is an inquisitorial process. The aim is to obtain a frank and full account of what

¹ Statement of Susan Jones, Deputy Principal, St Lucy's Wahroonga, Tab 34.

² Statement of Kerrie Dietz.

happened in the lead up to Fernando, Maria, Elisa and Martin's deaths. The Court's aim is not to blame individuals, but to determine whether lessons have been learnt, so that lives can be saved in the future. Knowing that, witnesses are encouraged to be as honest, self-reflective and open as they can be.

Issues at Inquest

11. The issues of this inquest are:

1. The identity, approximate date, place and medical cause of death of each of Maria Lutz, Fernando Manrique, Elisa Manrique and Martin Manrique;
2. The manner of their death and any relevant contributing circumstance, including the means by which carbon monoxide was sourced and introduced into the family home;
3. Regulation around the supply, delivery and/or storage of carbon monoxide, including:
 - a. any relevant legislation, policies, Australian standards, industry codes of practice or other material that restricted the supply, delivery and/or storage of carbon monoxide, and whether these restrictions were complied with in this case;
 - b. whether the present system of regulation of carbon monoxide is appropriate or whether, having regard to these deaths, there is any need for the introduction or amendment of legislation, policies or other relevant material restricting the supply, delivery and/or storage of carbon monoxide; and
4. Whether it is necessary or desirable for the Coroner to make recommendations in relation to any matter connected with the deaths, pursuant to s. 82 of the *Coroners Act 2009*.

Factual Background

11.A seven volume brief of evidence, which comprises six volumes and one supplementary volume, has been tendered through the evidence of the

Officer in Charge Detective Sergeant Timothy Pooley. I have heard the testimony of a number of witnesses particularly in relation to the delivery of commercially available cylinders of carbon monoxide.

12. The brief of evidence establishes that there is no controversy in relation to Fernando, Maria, Elisa and Martin's identities or the place of their deaths at the family home in Davidson.

13. As for the date of their deaths, Fernando was last seen alive at about 11:30am on Sunday 16 October 2016.³ The bodies of the family were found at about 11:00am on Monday 17 October 2016.⁴ Given that Maria, Elisa and Martin were found in their beds, it is likely that they died at night. At around 12:30am on 17 October 2016, one of their neighbours says they heard a noise that sounded like a dog barking, which sounded like it was coming from the direction of the Lutz/Manrique household.⁵ It is possible this noise was made by the family dog, Tequila, who also died of carbon monoxide poisoning and was found at the same time as the family. It is likely that the deaths occurred over the weekend of Sunday 16 to Monday 17 October 2016.

14. In terms of the medical cause of death, Post Mortem Reports in relation to Fernando, Maria, Elisa and Martin indicate that each died as a result of carbon monoxide toxicity, with carboxyhaemoglobin saturations in excess of 70%. This is well within the lethal range, with saturations exceeding 30% usually considered fatal. At these levels of saturation, it is likely that Fernando, Maria, Elisa and Martin died quickly. It appears that Maria, Elisa and Martin died in their sleep.

15. Fernando was responsible for sourcing the carbon monoxide and constructing a piping system to introduce the lethal gas into the family home. Accordingly, the real issue in this inquest concerns the circumstances

³ Second statement of Jill Crow dated 17 October 2016, at [5].

⁴ Statement of Constable James Knight, Tab 77. In the Statement of Senior Constable Justin Cashin, Tab 76, he indicates that they arrived at the property at 11:53am, but this appears to be an error, as he later states that an ambulance arrived at 11:30am, and all other evidence indicates that they arrived at approximately 10:55am.

⁵ Statement of Ofik Thomassian, Tab 39.

surrounding manner of death, in particular the means by which Fernando sourced, acquired and introduced carbon monoxide into the family home and the broader implications of his actions for industry regulation.

Personal Backgrounds

16. Maria and Fernando met as teenagers in Colombia. Maria worked as a criminal lawyer in Bogota and Fernando worked in advertising, having previously spent time in the army. They came to Australia in 2000 on skilled working visas and later became citizens. Around 2005, Maria and Fernando bought their home at 68 Sir Thomas Mitchell Drive, Davidson, and began fixing it up.

17. Elisa was born on 15 May 2005 and Martin was born on 24 August 2006. Both Elisa and Martin were diagnosed with autism and associated conditions early on in their lives at about age three, and required numerous therapies and medications. Maria stopped working in order to care for the children full-time. By all accounts she was a dedicated, loving mother.

Caring for Elisa and Martin

18. Elisa and Martin started school at St Lucy's, Wahroonga in 2011 and 2012. Maria sent her children to St Lucy's rather than to an autism-specific school because she wanted them to learn to be social and to be part of the community.⁶ The evidence revealed that Maria had a deep commitment to the best interests of her children, and other children with disabilities.⁷

19. Caring for Martin and Elisa was no doubt challenging, and became particularly challenging when Elisa developed a pattern of absconding from care. As Fernando travelled regularly for work, much of the care for the children was undertaken by Maria. There is evidence from Maria's friend Nichole Brimble that Maria was a "strong person" who had "both good days and bad days given what she was dealing with".⁸ However, the overwhelming evidence is that Maria was devoted to her children.

⁶ Statement of Susan Jones, Deputy Principal, St Lucy's Wahroonga, Tab 34.

⁷ Statement of Susan Jones, Deputy Principal, St Lucy's Wahroonga, Tab 34; Statement of Leesa Cluff, Tab 38.

⁸ Statement of Nichole Brimble.

20. On 14 October 2016, Maria went for coffee with some friends from St Lucy's. She told them about her discussions with representatives from the National Disability Insurance Scheme ("NDIS") agency. She was due to receive 5 hours of home help each day, with 2.5 hours in the morning and 2.5 hours in the afternoon.⁹ Maria's friends told investigating police that she was excited by the possibility of going back to work, and was generally in good spirits at this time.¹⁰

21. Documents from the NDIS dated 12 October 2016 show that Maria had secured nearly \$25,000 in funds to help care for her children.¹¹ It adds to the tragedy of this case that Maria, Elisa and Martin's lives should be cut short just as they were due to receive such potentially life-changing support.

Financial difficulties and tax debt

22. Fernando had been experiencing significant financial difficulties in the period before his death. In 2013, Fernando was made redundant from his job at Fuji Xerox where he had apparently been earning about \$300,000 per year.

23. In early 2014, Fernando joined Drake Business Logistics, a business which managed office facilities for large organisations. This role involved a significantly reduced income to his previous income at Fuji Xerox. His business partner, Grant Mackenzie, said in his statement that Fernando and received a management fee of approximately \$190,000 per year when he started at Drake Business Logistics.¹² There is evidence that Fernando hoped the company would grow and took a 10% share in the business. However, by the time of his death, the company had yet to break even.¹³

24. In early 2015, Drake Business Logistics expanded into Taiwan, the Philippines and Japan under the name Drake Business Services Asia. Each of Mr Mackenzie and Fernando took a 12.5% share of this company.¹⁴ Fernando also received an increased management fee of about \$30,000.

⁹ Statement of Peta Rostirola, Tab 30.

¹⁰ Statement of Peta Rostirola, Tab 30.

¹¹ NDIS Documents for Elisa Manrique, Tab 101C.

¹² Statement of Grant Mackenzie, Tab 47, p. 1-2.

¹³ Statement of Grant Mackenzie, Tab 47, p. 2.

¹⁴ Statement of Grant Mackenzie, Tab 47, p. 2-3.

25. Fernando was responsible for managing the business in Australia and the Philippines, and as a result spent two weeks in every month in the Philippines. Mr Mackenzie told investigating police that Fernando was “a very calm and measured type of person”, “very focused and seemed very in control”.¹⁵ Mr Mackenzie said that, on the whole, Fernando “didn’t seem very stressed or to be struggling”, however he did experience some difficulties at work in the couple of months before his death after a regional manager expressed frustrations with the business services managed by Fernando. Fernando told Mr Mackenzie that he was struggling to hold everything together and said, “I just need to slow down”.¹⁶ Fernando took some time off work in late September-early October. Mr Mackenzie told police that Fernando set very high standards for himself, but that he seemed refreshed after his time off work.¹⁷

26. It became apparent to Mr Mackenzie about a year before the family’s deaths that Fernando was struggling financially. Mr Mackenzie recalled the Australian Tax Office (“ATO”) were seeking repayment of debts from Fernando, which he believes Fernando accrued because he was not used to managing his own taxes as required in his role at Drake.¹⁸

27. Mr Mackenzie told investigating police that he lent money to Fernando, and knew that he had significant expenses supporting Maria, Elisa and Martin.¹⁹ Mr Mackenzie also told investigators that he was aware that Fernando was in a “serious relationship” with a girl called Jamilyn (or Jamie) in the Philippines, who he also supported financially.

28. Fernando retained the services of an accountancy firm to assist in managing his finances and tax debts. Fernando’s accountant provided evidence to investigators indicating that Fernando’s income for the 2016 tax year was \$186,761.48 and paid into the Manrique Family Trust.²⁰

¹⁵ Statement of Grant Mackenzie, Tab 48, p. 3.

¹⁶ Statement of Grant Mackenzie, Tab 47, p. 3.

¹⁷ Statement of Grant Mackenzie, Tab 47, p. 3-4.

¹⁸ Statement of Grant Mackenzie, Tab 47, p. 5.

¹⁹ Second Statement of Grant Mackenzie, Tab 48, p. 4.

²⁰ Statement of Ozair Anis, Tab 126, p. 3 [13].

29. The statement of Ozair Anis, who was Fernando's accountant, provides a more detailed picture of his tax affairs. Fernando's management fee from Drake came through the Manrique Family Trust, and was split equally between Fernando and Maria. This required both of them to pay tax, which they had failed to do. The ATO created Integrated Client Accounts for each of them, allowing for Pay As You Go Instalment payments to minimise their Income Tax bill at the end of the financial year. There was also a GST account for the Manrique Family Trust.

30. In total, Fernando's accountant managed five tax accounts for Fernando: the GST account for the Manrique Family Trust, his own Income Tax and Integrated Client Account, and Maria's Income Tax and Integrated Client Account.²¹ There was no money owing for the GST on the Manrique Family Trust as of 20 October 2016.²² There were essentially no funds in the Trust.

31. Mr Anis told investigating police that Fernando was focussed on repaying Maria's debts before his own. Maria had no outstanding debt on her Income Tax Account and a debt of \$4949.82 on her Integrated Client Account.²³

32. As at September 2016, Fernando owed a total of \$15,462.91 to the ATO. The ATO initially refused to grant a payment plan on Fernando's accounts, but later allowed an extension to 22 September 2016. Fernando met with his accountant that day and told him that he had tried and failed to draw down further on his mortgage. Fernando said that his only other option was to sell his car, which Mr Anis advised against.

33. On behalf of Fernando Mr Anis renegotiated with the ATO, with Fernando agreeing to pay \$4,000 upfront, with monthly repayments of \$1,700.²⁴ At the time of the family's deaths, the following debts were owed to the ATO:

- a. Maria Lutz Payment Plan: \$800
- b. Maria Lutz Pay As You Go payment: \$4,750
- c. Fernando Manrique Pay As You Go Payment: \$4,744

²¹ Statement of Ozair Anis, Tab 126, p. 4 [17].

²² Statement of Ozair Anis, Tab 126, p. 4 [18].

²³ Statement of Ozair Anis, Tab 126, p. 5 [19]-[20].

²⁴ Statement of Ozair Anis, Tab 126, p. 6.

d. Fernando Manrique payment plans: \$4,000.²⁵

34. On top of these repayments, Fernando owed a further \$11,492 to the ATO to be paid over the following six months.²⁶ Detective Sergeant Pooley gave evidence that he was aware that the Manrique Trust had just \$6 deposited. The Trust had a credit card with a \$28,000 debt and that payments for interest only were being made. Likewise the \$510,000 mortgage in the Home Loan account was receiving interest only payments. Maria had a couple of thousand dollars in her account and there was a negative amount in another savings account. Detective Sgt Pooley noted a \$1 million life insurance policy. He described Fernando as being in dire financial straits with massive tax issues.

Marital problems

35. Since about 2013 Fernando and Maria had been experiencing marital problems.

36. In 2013, Fernando confided in his friend Jairo Campos that his marriage had become strained as a result of the time he spent travelling for work. He mentioned that he was seeing other women in the Philippines and told Mr Campos that there was nothing left in the relationship. However, he also said that it would be unacceptable for Maria to start seeing other people.²⁷

37. Mr Mackenzie told investigating police that Fernando would “hook up” with a lot of girls while travelling and would sometimes date girls over extended periods of time. Mr Mackenzie met Jamie in the Philippines in September 2016, who at this time had been dating Fernando for about four months.²⁸ Fernando continued to be involved with Jamie until the time of his death.

38. Investigating police arranged for an AFP agent based in the Philippines, Detective Sergeant Rachel Ball, to interview Jamie in the Philippines on 17 January 2019. Detective Sergeant Ball subsequently provided a statement

²⁵ Statement of Ozair Anis, Tab 126, p. 7.

²⁶ Statement of Ozair Anis, Tab 126, p. 7.

²⁷ Statement of Jairo Campos, Tab 56.

²⁸ Statement of Grant Mackenzie, Tab 47, p. 4.

to Australian investigating police and an audio recording of the interview, which has since been transcribed and appears in the brief of evidence.

39. Jamie told Detective Sergeant Ball that she was 17 years old when she met Fernando working in a bar in March 2015. After spending two weeks with her, he told her to stop working in the bar and gave her money to support herself. He continued to do this on a monthly basis.²⁹ Whenever he came to the Philippines, he would spend time with Jamie. Jamie would return to her family when Fernando was in Australia.³⁰

40. Jamie told Detective Sergeant Ball that Fernando intended to buy a property for Jamie, but never did so.³¹ She also recalled that Fernando was particularly stressed during his final trip to the Philippines in September 2016 and that he drank more than usual.³²

41. Mr Mackenzie told investigators that he recalled a conversation with Fernando in around September 2016 where Fernando said that Maria had found out about Jamie and confronted him about it. Fernando said that he had decided to move out and was looking for a new place in Sydney.

42. Maria also confided in friends about her relationship problems. She told one friend that she and Fernando had been sleeping in different rooms, and that they had not had a sexual relationship since 2014.³³ She said that she didn't care whether Fernando was having an affair.³⁴

43. There is evidence that, in August 2016, Maria said that she wanted to get a divorce and that she had drawn up a contract outlining what she required him to do over the next six months in order to stay in the marriage.³⁵ Maria was convinced that Fernando would not be able to meet her requirements because he didn't understand what was involved in the care of Elisa and Martin.³⁶

²⁹ ERISP Transcript of Jamilyn Gumangan, p. 1.

³⁰ ERISP Transcript of Jamilyn Gumangan, p. 2-3.

³¹ ERISP Transcript of Jamilyn Gumangan, p. 6.

³² ERISP Transcript of Jamilyn Gumangan, p. 6.

³³ Statement of Peta Rostirola, Tab 30, p. 2.

³⁴ Statement of Peta Rostirola, Tab 30.

³⁵ Statement of Peta Rostirola, Tab 30, p. 3; Statement of Kerrie Dietz, Tab 31, p. 3.

³⁶ Statement of Kerrie Dietz, Tab 31, p. 4.

44. On 17 August 2016, when Fernando was in Sydney, Martin fainted at a school carnival due to his new medication affecting his blood pressure. Maria told Fernando what was happening, and was upset that he did not respond. She called him at work, and he said that he was busy with a meeting. Maria's friends told investigating police that, after this incident, Maria told Fernando to move out of home.³⁷ She told friends that she was going to get a divorce as she was "absolutely done with Fernando".³⁸
45. Early in the school holidays in September and October of 2016, Fernando took a work call at 2am. He spoke loudly and woke Elisa and Martin. This upset Maria, who told him to find somewhere else to live. Fernando left and reportedly stayed in a hotel room for a few nights. Maria still wanted Elisa and Martin to see Fernando and spend time with him, and Fernando attended a number of Martin's doctor's appointments during this week.³⁹
46. Fernando returned to the family home on Sunday 2 October 2016, telling Maria that he needed to stay at home while he found somewhere else to live. Maria told her friend Nichole that Fernando had been good at home—helping with the children and cooking dinner—and that if he had been like this during their marriage she would not have asked him to go. Maria told Nichole that she didn't have the heart to ask if Fernando had found somewhere else to go and as a result he stayed at the family home.⁴⁰ Maria described Fernando as acting like "father of the year" during that week.⁴¹

The order and delivery of carbon monoxide

47. Whilst staying in the hotel, on 30 September 2016 Fernando opened an account with BOC. BOC is a company which is part of the Linde group and supplies gas and welding equipment. Fernando opened the account under his company name, Drake Business Logistics, and listed himself as the contact person, providing his own phone number and email address.

³⁷ Statement of Nichole Brimble, Tab 28, p. 2.

³⁸ Statement of Peta Rostirola, Tab 30, p. 3; Statement of Kerrie Dietz, Tab 31, p. 3.

³⁹ Statement of Nichole Brimble, Tab 28, p. 3.

⁴⁰ Statement of Nichole Brimble, Tab 28, p. 3.

⁴¹ Statement of Kerrie Dietz, Tab 31, p. 4.

48. On 4 October 2016, two days after returning to the family home, Fernando told his friend Mr Campos that he needed to test the carbon monoxide levels in enclosed car parks, and that he needed tanks of gas to conduct those tests. Fernando said that he did not have space to store gas tanks in the office and could not store them securely at his house. He asked Mr Campos if he could take delivery of the cylinders and store them at his home. He said that his company would pay Mr Campos \$300-\$500 for that storage. Mr Campos agreed to accept delivery of the gas cylinders at his residential home in Parklea.⁴²
49. Mrs Campos told investigating police that she was initially worried about storing the gas at her house and was concerned about the risk of it exploding. Mr Campos reassured her that it would be fine so long as the gas cylinders were stored outside.⁴³
50. On 5 October 2016, Elisa was involved in an incident where she ran away from her respite carers, took off her clothes and went swimming. Fernando was apparently very upset by this, particularly the fact that people had seen his daughter naked.⁴⁴ It is unlikely that this event had any bearing on the events that followed, as Fernando had, by opening the BOC account and having spoken with Mr Campos, already commenced actioning his plan to obtain the carbon monoxide that would ultimately bring about the death of his family.
51. On 6 October 2016, Fernando placed an order online with BOC for two cylinders of carbon monoxide. Although he used his company ABN to create the order, he listed the delivery address as Mr and Mrs Campos' residential address in Parklea.
52. On 7 October 2016, Mrs Campos accepted delivery of the first cylinder of carbon monoxide from Robert Lamont, who at that time was an experienced delivery driver employed by Linfox Logistics, a delivery and supply company.

⁴² Statement of Jairo Campos, Tab 56; Statement of Andrea Campos, Tab 58.

⁴³ Statement of Andrea Campos, Tab 58.

⁴⁴ Statement of Peta Rostirola, Tab 30; Statement of Kerrie Dietz, Tab 31, p. 2-3.

As at October 2016, Linfox were contracted to handle gas deliveries for BOC.⁴⁵

53. BOC provided all training material for Linfox drivers. Carbon monoxide is classified in this material as a flammable gas, a toxic gas, and an asphyxiant gas. The carbon monoxide was provided to Fernando as a compressed gas. Each of these types of gas has its own dangers, which are covered in the BOC training.⁴⁶

54. In a statement given to investigating police, Mr Lamont indicated that he kept an accurate record of dangerous goods on his truck, as required by the Environmental Protection Agency. He remembered noticing the cylinder of carbon monoxide gas due to its unusual regulator valve cap.

55. When it came time to deliver the gas cylinder, he looked up the address in Parklea and was surprised to see that it was a residential address. Mr Lamont told investigating police that he thought this was unusual for a delivery of carbon monoxide, so double checked his paperwork and took steps to check that the address was correct.

56. Mr Lamont told investigating police that it was also his usual practice to contact the customer before delivery of the goods. He called Fernando's listed mobile number and spoke to a male (presumably Fernando) to confirm he had the correct address. The man confirmed the address and told Mr Lamont that he would be collecting the gas from that address and taking it to a building site on the Central Coast. Mr Lamont told investigators that he found this odd and remembered talking to his wife that night about the delivery.⁴⁷ He subsequently delivered the gas to the Campos' residential address and which was received by Mrs Campos.

⁴⁵ Statement of Andrea Campos, Tab 58; Statement of Robert Lamont, Tab 59.

⁴⁶ BOC Training Material for Linfox Drivers, Tab 63F.

⁴⁷ Statement of Robert Lamont, Tab 59.

57. Between 2:00 to 3:00pm on 10 October 2016, Mrs Campos accepted delivery of a second cylinder of gas, this time delivered by Daniel Reilly. Mr Reilly was also an experienced driver employed by Linfox at that time.⁴⁸
58. Like Mr Lamont, Mr Reilly called the listed contact number prior to delivery and spoke to a male (presumably Fernando) to confirm the address. Mr Reilly told police that he remembered thinking it was “a bit odd” to deliver carbon monoxide to a residential address. In his ten years of delivering BOC gas cylinders, he had only delivered carbon monoxide on a handful of occasions, and normally to businesses or lab facilities.⁴⁹ When he delivered the gas to Mrs Campos, he asked her what it was for and she said she didn’t know.
59. Mr Reilly forgot to scan the barcode on the gas cylinder during the initial delivery, which is required in order to close the customer’s account. Mr Reilly returned to the Parklea address on the morning of 11 October 2016 but no one was home. He returned again on the afternoon of 11 October 2016 and he spoke to Mrs Campos, who told him that the cylinders had already been picked up.⁵⁰
60. Fernando went to the Parklea address on 11 October 2016. He met with Mrs Campos and checked on the gas bottles. While Fernando and Mrs Campos were talking, he mentioned that the delivery company had been surprised that the cylinders were being delivered to a residential address. He told Mrs Campos that he needed the cylinders to run tests related to levels of carbon monoxide released by cars in underground car parks. He told her that he could not have stored them in his garage as his garage always had its doors open “for the children’s sake”. He gave Mrs Campos \$400 in cash for accepting delivery and storing the cylinders. Fernando collected the gas cylinders from the Campos residence on 11 October 2016.⁵¹
61. Mr and Mrs Campos both gave evidence in the inquest. They were both co-operative and honest witnesses. It is without hesitation that I find that they were both lied to and deceived by Fernando. His explanation as to the

⁴⁸ Statement of Andrea Campos, Tab 58; Statement of Daniel Reilly, Tab 60.

⁴⁹ Statement of Daniel Reilly, Tab 60.

⁵⁰ Statement of Daniel Reilly, Tab 60.

⁵¹ Statement of Andrea Campos, Tab 58

purpose of the gas and the reason he could not store it on his own premises were designed to deceive Mr and Mrs Campos as well as the delivery drivers who might ask them questions in this regard. The Campos' were duped by Fernando's use of his business, the provision of fees and request for an invoice into thinking that the gas was for a legitimate rather than lethal purpose. There was no reason for either of them to suspect that Fernando had a sinister plan in place.

62. The police investigation established that Fernando went to a Bunnings Hardware store at Belrose on four occasions, being 8, 11, 12 and 13 October in the week before the family's deaths. He purchased the materials that he used to pump carbon monoxide from the gas cylinders into his house.

63. On 14 October 2016, rather than making the two payments due to the ATO he transferred \$3341 to his girlfriend Jamie in the Philippines.

Police find the deceased

64. On Monday 17 October 2016, Maria's friend, Nichole Brimble, arrived at St Lucy's school in the morning. Ms Brimble told investigating police that she regularly volunteered for the school canteen with Maria on Monday mornings and that, when she realised Maria was not there, she considered it unusual. Nichole went to the school reception to check if Elisa and Martin were at school, and subsequently received confirmation that they were not in their classrooms.⁵²

65. Nichole attempted to call Maria and received no response. Another staff member at the school attempted to call Fernando, but also received no response. Nichole told investigators that she became very concerned at this point and contacted police at about 10:15am. She requested that they conduct a welfare check at the family home in Davidson.⁵³

66. Senior Constable Cashin and Constable Knight were dispatched to conduct the welfare check. They arrived at the family home in Davidson at

⁵² Statement of Nichole Brimble, Tab 28, p. 4-5.

⁵³ Statement of Nichole Brimble, Tab 28, p. 5.

approximately 10:55am.⁵⁴ The officers knocked on the door and surrounding windows but received no reply. They attempted to look through the windows but the lights were off. They observed no signs of forced entry or disturbance.⁵⁵

67. Constable Knight spoke to Nichole on the phone, and confirmed that both of the family's vehicles were outside the premises.⁵⁶ Nichole's concern grew and she asked police to enter the house. Initially they said that they could not do so as there needed to be an imminent danger.⁵⁷

68. Senior Constable Cashin and Constable Knight returned to the house and conducted a second search of the perimeter. They stopped at a slightly open window at the rear of the house, which Constable Knight was able to open further. He pulled the curtains aside and saw Maria lying in bed. Senior Constable Cashin and Constable Knight attempted to get her attention but she was unresponsive. They contacted police radio and indicated that they would force entry.⁵⁸

69. After forcing entry into the house, Senior Constable Cashin and Constable Knight entered the hallway on the eastern side of the lounge room approximately five metres from the front door. They found Fernando unresponsive, lying face down on the floor. He was grey in colour and firm to the touch.⁵⁹

70. They found Martin unresponsive in his bed, and the family dog Tequila lying unresponsive on the floor. They then found Maria and Elisa lying in Maria's bed. They too were unresponsive.⁶⁰

71. Senior Constable Cashin confirmed that Fernando, Maria, Elisa and Martin had no vital signs, and Constable Knight advised police radio that they had

⁵⁴ Statement of Constable James Knight, Tab 77, p. 1. In the Statement of Senior Constable Justin Cashin, Tab 76, he indicates that they arrived at the property at 11:53am, but this appears to be an error, as he later states that an ambulance arrived at 11:30am, and all other evidence indicates that they arrived at approximately 10:55am.

⁵⁵ Statement of Constable James Knight, Tab 77, p. 2.

⁵⁶ Statement of Constable James Knight, Tab 77, p. 2; Statement of Nichole Brimble, Tab 28, p. 5.

⁵⁷ Statement of Nichole Brimble, Tab 28, p. 5.

⁵⁸ Statement of Constable James Knight, Tab 77, p. 2-3.

⁵⁹ Statement of Senior Constable Justin Cashin, Tab 76, p. 2.

⁶⁰ Statement of Senior Constable Justin Cashin, Tab 76, p. 2-3.

found four deceased persons on the premises. A crime scene was then established.⁶¹

72. An ambulance arrived at 11:30am and paramedics confirmed that all four members of the family were deceased.⁶²

Police conduct further investigations

73. Detective Sergeant Tim Pooley was informed of the situation at 11:30am on 17 October 2016. He took charge of the investigation and contacted the supervisor on scene, Sergeant Christopher at 11:55am to instruct him to notify staff not to conduct a canvass until he was in attendance.⁶³

74. At 12:55pm, Detective Sergeant Pooley and other officers conducted a further examination of the crime scene and inspected the outside area of the house. Detective Sergeant Pooley noticed some clear plastic hosing running from the bushes near the front fence to the rain water tanks, up to the top of a portable pergola in the back garden, and out of sight into the roof.⁶⁴

75. Upon further investigation, police found two cylinders of carbon monoxide gas in the shed behind the house. These were the cylinders that had been delivered to Jairo and Andrea Campos. The cylinders had been connected to hoses, which ran from the shed, up the rainwater tanks and up to the roof of the house. The hose was secured to the house with metal clamps.⁶⁵ It continued into the house, and was used to pump carbon monoxide gas into the bedrooms of Maria and Martin.

76. When police found the cylinders, one was empty and the other was full.⁶⁶ When police entered the house, they found that the fans in Maria and Martin's rooms were turned on at high speeds.⁶⁷ It is possible that Fernando turned the fans on in order to spread the carbon monoxide around the rooms.⁶⁸ It is also possible that the family turned the fans on due to the temperature – the

⁶¹ Statement of Senior Constable Justin Cashin, Tab 76, p. 3.

⁶² Statement of Senior Constable Justin Cashin, Tab 76, p. 3.

⁶³ Statement of Detective Sergeant Tim Pooley, Tab 27, p. 1-2.

⁶⁴ Statement of Detective Sergeant Tim Pooley, Tab 27, p. 5.

⁶⁵ Statement of Detective Sergeant Tim Pooley, Tab 27, p. 8.

⁶⁶ Statement of Detective Sergeant Tim Pooley, Tab 27, p. 15.

⁶⁷ Statement of Detective Sergeant Tim Pooley, Tab 27, p. 6-7.

⁶⁸ Statement of Detective Sergeant Tim Pooley, Tab 27, p. 8-9.

maximum temperature in Sydney on 16 October 2016 was 28 degrees, and the overnight temperature was 24 degrees.⁶⁹

Fernando Acted Alone

77. Fernando planned the deaths of his family over the course of some time. The police did not locate devices from which they could investigate when and if he had been researching how he would carry out his plan. The earliest date identified is the day he opened the account at BOC. This was during the period he had been staying away from the family home at the request of Maria who had told him that their marriage was over and she no longer wanted him living with her and the children.

Maria's lack of knowledge and involvement in Fernando's Plans

78. This case has understandably been the subject of significant media attention, some of which has included speculation that Maria may have been complicit in Fernando's actions. This has no doubt been hurtful to her family and friends, who remember Maria's devotion to her children.

79. Evidence establishes that Maria had no awareness of or involvement with Fernando's plans. Fernando took deliberate steps to hide the gas from her, including having it delivered to another address and then locking it in the garden shed in the backyard.

80. Maria showed such a high level of commitment and capability of providing for Elisa and Martin throughout their lives, her happiness at having recently secured funding through the NDIS, and her plans for the future. She had become qualified to start work as a special needs teachers' aide. She had plans to move Elisa and Martin to a new school as Elisa was starting high school. In the week prior to the 15 October 2016, Maria continued to make appointments, pay invoices and buy household items.

81. There is evidence that Maria was suffering from anxiety and stress at the time of her death, and she had sought counselling with a psychologist who she last consulted on 11 October 2016. Her treating psychologist did not believe

⁶⁹ <https://www.timeanddate.com/weather/australia/sydney/historic?month=10&year=2016>

she was depressed. Similarly, Maria's parents told investigating police that when they spoke to her on 15 October 2016, "the mood was usual. Just a family conversation conveying the little happenings in both houses". The main memory that Maria's mother has of this conversation is that they spoke about the birds in each of their gardens.

Fernando's intentions

82. Whilst it is clear that Fernando intend to kill his wife and children, an issue that arises on the facts of this matter is whether he also intended to die with them.

83. Much of the evidence before the Court regarding Fernando's intentions is open to interpretation. The evidence establishes that sometime after Maria and the children fell asleep, Fernando would have left the house to turn the gas on. He re-entered the house. Whilst Maria and the children died apparently whilst asleep in their beds Fernando's body lay face-down in the hallway. This may be consistent with the possibility that he was accidentally overcome by the gas.

84. The police noted that the fans were on high speed. Perhaps Fernando had collapsed whilst turning the fans on high speed to disperse the gas but it is equally likely that the fans had been on from the time Maria and the children went to bed due to the warm weather. Perhaps Fernando had been going from one room to the other to check whether he needed to deploy the second canister of gas and became overwhelmed. Perhaps he had positioned himself deliberately to be between the 2 rooms rather than be in bed. Though it is not possible to determine why he was at that particular spot when he died, is it possible to determine if he intended to die?

85. Fernando knew the nature of the gas. He knew that it was odourless and colourless and highly lethal. That is why he selected it – to end the lives of his wife and children painlessly and quickly and without them knowing. If he had wanted to avoid its effects he would have protected himself with a gas mask. His knowingly being in the location of gas exposure without protection points more to suicide than accident. The police said that all the doors were

locked which is consistent with Fernando entering the house with the intention to stay.

86. Fernando had destroyed his computer and hard drives which is consistent with having a plan to end his life and save his reputation in relation to both his extra-marital affairs and his involvement in the deaths. It may also be consistent with a plan to start a new life. Likewise his transfer of money to Jamie. However, Jamie told the police investigator that Fernando had never discussed with her moving to the Philippines permanently.⁷⁰ The transfer of money is more likely to have been a parting gift as opposed to funding a nest egg to share with her. Fernando had significant superannuation funds. There is no evidence that he attempted to access these funds for future use. Apart from the small amount of cash found in his wallet, the money Fernando sent to Jamie was likely the only cash he had access to and was not of great significance.

87. The police investigation found no future travel arrangements in place for Fernando. Though there were two suitcases containing men's clothing and other items that appeared to belong to Fernando a bedroom, it is likely that he had kept the bags packed after returning to the house a few days earlier. Additionally, given that he travelled frequently it is likely that he had kept the bags packed as a matter of convenience.

The Regulation and Supply of Carbon Monoxide

88. The focus of this inquest is the regulation around the supply, delivery and storage of carbon monoxide and whether any recommendations should be made in this regard. Of real concern is the relative ease with which Fernando was able to source a large quantity of lethal carbon monoxide and have it delivered to a residential address without too many questions being asked.

Policy evidence

89. At the time Linfox held the transport contract for BOC gas. BOC provided all training material for Linfox drivers. Carbon monoxide is classified in this material as a flammable gas, a toxic gas, and an asphyxiant gas. The carbon

⁷⁰ ERISP Transcript of Jamilyn Gumangan, p. 10.

monoxide provided to Fernando was a compressed gas. Each of these types of gas has its own dangers, which are covered in the BOC training.⁷¹ I heard evidence in relation to this training and the relevant policies employed by both Linfox and BOC. Both BOC and Linfox have provided evidence to this inquest in relation to training and policies both as at the time of the incident and current. The material provided by BOC, in particular, sets out a number of changes made to prevent a similar incident occurring in the future.

90. The delivery drivers Mr Lamont and Mr Reilly both gave evidence and it was very clear that they were experienced drivers and complied with the policy and their training. Each thought it was unusual for a residential delivery and each checked with Fernando by telephone. Ironically, Mr Reilly said when he deposited his delivery and saw that another cylinder was already there, his concerns about the legitimacy of the order were allayed somewhat.

91. Mr Lamont had never delivered carbon monoxide in his two years of delivering gas. He had been driving for Linfox for the last 11 years of his 28 year driving career. He said that he did not know what carbon monoxide is used for and though he did not know there was no domestic use for it, he said he assumed that was so. He said that when he spoke with Fernando, he told Mr Lamont that he was going to collect the gas and take it up a factory on the Central Coast.

92. Mr Lamont said that he was not aware there had been a change in the system implemented by BOC as a result of this incident. Likewise Mr Reilly said he was unaware but I note that Linfox, for whom they worked at the time, no longer held the BOC transport contract after June 2017. Mr Reilly had been driving for Linfox since 2009, but had experience driving BOC products since 2004. Prior to this delivery he had delivered carbon monoxide about four to five times previously. This was the first time he had delivered carbon monoxide to non-commercial premises. Though he had received no specific training in relation to carbon monoxide, he had received training for safe handling of dangerous gases and chemicals.

⁷¹ BOC Training Material for Linfox Drivers, Tab 63F.

93. Mr Reilly said he telephoned Fernando because he always calls if he had not previously made a delivery to a new customer. He confirmed that it was to be delivered to a residential address. He asked Fernando what he was using it for and was told that it was to carry out calibrations at a location close to the residence rather than to the factory where he was working. Mr Reilly said he had no concerns after that telephone call and if he had he would not have delivered it. Mr Reilly said that he did not know that there had been an earlier delivery and when he saw the other cylinder it appeased any concerns he had. He said he knew it had been delivered by one of their drivers when he saw the cylinder.

94. The brief of evidence includes statements taken by investigating police in 2016 and 2017 from Daniel Whittle and Robyn Bell of BOC, outlining policy and procedure for the transport and labelling of BOC gases and the nature of BOC's online order system as at October 2016 and changes made to that system since these deaths.⁷²

95. Of particular relevance is that, prior to the Manrique family's deaths, BOC was not aware of carbon monoxide being used in any actual or attempted homicide. After becoming aware of the deaths, BOC took a number of steps to prevent a similar occurrence in the future:

- a. It reduced the visibility to view and order pure carbon monoxide from its website. BOC subsequently reinstated this on its website in February 2017 but only for large commercial customers.
- b. BOC also implemented an "End User Declaration", which asks a series of questions that customers are required to answer before initial supply of gases to ensure that the customer understands the processes involved in safe handling, storage and use of carbon monoxide. It also requires the user to make a declaration about the intended use of the gas and provide photo identification.

96. While the "End User Declaration" is a laudable step, it is not clear that this would have prevented Fernando from obtaining the carbon monoxide, given

⁷² Statement of Robin Bell, Tab 65, p. 1-3.

that he utilised the ABN of his business and lied to Mr and Mrs Campos and at least one of the Linfox drivers about what he intended to do with the carbon monoxide.⁷³

97. The brief of evidence also includes a statement of Simon Livingstone, General Manager – Resources & Industrial East of Linfox Logistics, dated 1 April 2019. In his statement, Mr Livingstone confirms that Linfox were contracted to BOC from June 2009 to June 2017 and performed a transport delivery function during this time. In essence, Linfox provided vehicles and drivers to BOC to perform deliveries of BOC products to their customers. Under the contract, Linfox managed key transport related activities such as vehicle and driver hiring, training and management. BOC maintained responsibility for scheduling, customer service, policy management and support training of product safety issues.

98. Mr Livingstone gave evidence that the contractual relationship between BOC and Linfox required Linfox to adopt its safety standards and training system, including a training tool called 'Traccess'. Linfox trained its drivers using Traccess material. BOC also delivered training sessions to Linfox drivers in respect to new products, equipment or changes. Linfox supported this system with its own safety management system and comprehensive policy dealing with the handling of dangerous goods. The Traccess system allowed Linfox to carry out monthly audits for driver training compliance. There was never any training that carbon monoxide could not be delivered to residential addresses.

99. Mr Livingstone states that, following the death of the Lutz/Manrique family, Linfox and BOC had senior level discussions. There were also discussions at a local level between Linfox management and drivers. BOC subsequently conducted an internal review and adopted changes to its ordering, scheduling, customer service and policy management system; however, Mr Livingstone indicates that these changes were at the instigation of BOC and

⁷³ Statement of Robin Bell, Tab 65, p. 4-5.

he is not aware that Linfox directly changed any of its own processes based on this incident.

100. The contract between Linfox and BOC ceased in June 2017 and has not been renewed. The evidence is that Linfox is not currently performing packaged business to consumer carbon monoxide gas deliveries in Australia. It does, however, perform packaged gas deliveries for Origin Energy and delivers 45kg LPG gas cylinders.
101. Mr Livingstone said that Linfox drivers are trained to conduct a “Dynamic Risk Assessment” which empowers drivers to make a decision when delivering – “if it doesn’t feel safe then don’t deliver”. He said that both Mr Lamont and Mr Reilly engaged that process when they telephoned Fernando and asked him questions about the delivery.
102. Mr Livingstone was asked about the End User Declaration and whether he saw any problems with the suggestion that a truck driver is given a copy of the declaration to make sure that the delivery complies with the intended use which was indicated when the gas was ordered. Mr Livingstone said he could see no problems with a driver being required to call-in a delivery if there were material inconsistencies.
103. Mr Beckett on behalf of BOC raised the issue that the efficacy of such a process would not be possible where drivers made delivery to a location where there was not a person taking delivery of the item, such as where the driver places the cylinder in a locked cage area. That difficulty was acknowledged by the drivers and Mr Livingstone.

BOC and Robert Brittliff

104. BOC have provided two statements prepared by Robert Brittliff, Head of Health, Safety and Environment (or “HSE”) for the South Pacific. Both statements are dated 4 April 2019. Mr Brittliff also attended the inquest and gave evidence.

105. Mr Brittliff's statements provide some general information as to BOC operations in Australia. Mr Brittliff notes that BOC is the major market leader in respect of the supply of industrial and medical gases in Australia, with other major participants in the market being Air Liquide, Coregas and Supagas. Unlike those companies, BOC services not only include the supply and installation of gases, but also the installation of equipment related to the use of gas. Carbon monoxide is one of 568 different industrial and medical gases which BOC supplies throughout Australia, as well as thousands of speciality mixtures. Mr Brittliff confirms that what Fernando ordered online is referred to industry as "pure carbon monoxide"; that is, a gas containing a minimum of 99.2% carbon monoxide.
106. Mr Brittliff gives evidence about best practices in the gas industry, which are coordinated through the Australia New Zealand Industrial Gas Association ("ANZIGA"). ANZIGA have provided a statement to this Court which forms part of the brief of evidence. Each of the four major gas supply members to which I have just referred is a member of ANZIGA. According to Mr Brittliff, one of ANZIGA's key areas of focus is product stewardship, including the categorisation of products according to applicable risk and/or known uses of the gas, and development of controls to prevent the misuse of these products. As a toxic and odourless gas, carbon monoxide is generally subject to the following controls: safety alert, communications pack, staff awareness training and restricted access to appropriate applications. In his evidence he said he thought that everyone in the industry would know that carbon monoxide is not intended for domestic use.
107. Mr Brittliff's evidence is that, to the best of his knowledge, other than BOC, only Air Liquide and Coregas are engaged in the supply of carbon monoxide. As noted above, since the death of the Lutz/Manrique family, BOC has taken steps to remove the visibility of the availability of pure carbon monoxide from its website. Mr Brittliff states that it is his understanding that, at an ANZIGA meeting after the death of the Lutz/Manrique family, Air Liquide and Coregas

both agreed to do the same. Accordingly, he states that it would now be difficult to source online pure carbon monoxide from an Australian provider.

108. Mr Brittliff outlines the process for ordering gas online. He notes that different operators are used for the delivery of gases and accessories (or “hard goods”) as they have different compliance requirements and come from different locations. Accordingly, while a person can place an online order with BOC for both gases and hard goods, the accessories would never be delivered with the gas. Similarly, if a customer makes an order for more than one gas, it is not uncommon that they be delivered separately. Mr Brittliff speculates that this is likely why the two carbon monoxide cylinders were delivered to the Campos’ residence separately.

109. Mr Brittliff refers back to the evidence of Mr Bell and makes the further observations about changes made by BOC after the deaths of Maria, Fernando, Martin and Elisa:

- a. In addition to the measures outlined by Mr Bell, BOC has introduced a Protocol for BOC staff setting out how customer screening for sensitive materials occurs at BOC. Associated with the protocol is a list of BOC sensitive chemicals, which includes carbon monoxide.
- b. Customer representatives at BOC are trained in respect to the Protocol and End User Declaration, and require a 100% in-class assessment mark in order to complete the course. If that is failed, staff can re-sit the test up to three times, at which stage a manager will have a discussion with that staff member.
- c. BOC has implemented a “Product Stewardship” procedure whereby carbon monoxide has an automatic block in the processing system used by BOC, such that when an order is initiated for carbon monoxide it cannot be completed until the ‘end user declaration’ has been completed. As indicated earlier, the end user declaration requires customers seeking to buy carbon monoxide to indicate the intended

use of the gas and provide a copy of identification. Customers purchasing sensitive chemicals, including carbon monoxide, must also provide a sensitive chemical declaration, after receipt of which BOC completes a sensitive chemicals checklist. This system also applies if carbon monoxide is ordered in person or over the phone. All end user declarations are sent to a product stewardship lead or manager, who must approve the order before it is released for production.

d. Mr Brittliff also refers to safety data sheets, guidelines for gas cylinder safety and other safety information publicly available through the BOC website, most of which was available as at October 2016.

110. Despite these positive steps, Mr Brittliff notes that in practice it is extremely difficult to identify circumstances where a customer is attempting to obtain gas for an improper purpose. He sets out a number of reasons for this, including that it is not uncommon for BOC to deliver gases (including gases of a serious nature) to residential addresses. He also notes that it can be difficult to determine whether or not an address is residential. Further, in a situation like the present circumstances where Fernando used an ABN and business name, it would be difficult to detect malevolent intent or intended misuse.

111. Mr Brittliff gave evidence elaborating on the Product Stewardship introduced by BOC in response to Manrique family deaths. The first is limiting the website access of carbon monoxide. Initially BOC had removed from its website the availability of carbon monoxide. It has been restored to the website for major customers only. Secondly it was the introduction of the End User Declaration, and finally the Sensitive Product Stewardship was implemented whereby once a new customer completes its order the product manager of the Product Stewardship Review Team assesses the order rather than a person at the call-centre.

112. Mr Brittliff said that these changes were implemented by BOC itself rather than it being driven by a regulator. I accept that in doing so BOC strives to be a model corporate citizen and takes its responsibility for the provision of safety in the gas industry appropriately seriously.

113. Mr Beckett asked Mr Brittliff about the quantities of BOC gas cylinder deliveries undertaken each year. Mr Brittliff said that it would number about 100,000 per week which was about 5 million per annum and of that a small fraction, some 2000 cylinders of carbon monoxide would be delivered each year. Less than 30% would be pure carbon monoxide such as what was ordered by Fernando. Mr Brittliff said that carbon monoxide is primarily used by laboratories and factories and there would be around 100 customers. He said he was aware of other gases being diverted for improper use and that regulating carbon monoxide would not meet the situation where persons import it.
114. Mr Beckett asked Mr Brittliff about the logistics of the driver being given the task of matching the End User Declaration with the delivery. Mr Brittliff said that queries are raised with the customer manager and that process is in place at the time a new customer seeks a delivery. Mr Brittliff agreed that where a delivery was made at remote locations, given that transport can be delegated to smaller operations and some locations are not staffed when a delivery is made, a scheme involving compliance with End User Declaration at that end would be difficult.
115. Mr Brittliff said that there would also be difficulties with the uniformity of application of placing carbon monoxide onto the Poisons Standard due to national distribution being subject to state government regulations and regimes which would impact on the supply and delivery. He agreed with Mr Beckett's proposition that ANZIGA is an appropriate forum to ensure consistency so that there is no unfair advantage when making any improvement to the safety of the industry. ANZIGA has developed a framework for different gases including carbon monoxide and whether the End User Declaration should involve drivers is a matter which could be considered by ANZIGA.
116. Those assisting me obtained an expert report from a chemical safety consultant, Richard Greenwood requesting an opinion on whether the present

system of regulation of supply, delivery and/or storage of carbon monoxide is appropriate and adequate or whether, having regard to these deaths, that system should be amended.

117. Mr Greenwood, who attended the inquest and gave evidence, is a lead consultant for RG Chemical Safety, conducted a review of NSW and Commonwealth law regarding the supply, storage and use of toxic chemicals and subsequently produced a report dated 4 March 2019. In the report, Mr Greenwood provides a detailed summary of the regulation of the transport of carbon monoxide. I note the following particularly relevant aspects of the report:

- a. Carbon monoxide is odourless and non-irritating and therefore generally not detected by those exposed. Deaths arising from carbon monoxide exposure commonly arise as a result of incomplete combustion of fuel in poorly ventilated areas. Mr Greenwood was unable to determine if there have been any deaths as a result of workplace material of supplied pure carbon monoxide.⁷⁴
- b. There are three major suppliers of industrial gases in Australia, all of which are members of ANZIGA: BOC, Coregas and Air Liquide. Air Liquide provides a safety data sheet for carbon monoxide on its website but does not include it in the gases identified for supply. Similarly, Coregas includes carbon monoxide as a low concentration component in calibration gases but does not list carbon monoxide as a pure gas for sale.⁷⁵
- c. Carbon monoxide falls within the *Dangerous Goods List* as entry UN1016. It is identified as a toxic gas under Division 2.3 and as a flammable gas under Division 2.1. The regulatory framework is primarily concerned with transporting dangerous goods, and has no controls restricting supply or sale.⁷⁶

⁷⁴ Expert Report of Richard Greenwood, Tab 125A, p. 5.

⁷⁵ Expert Report of Richard Greenwood, Tab 125A, pp. 6-7.

⁷⁶ Expert Report of Richard Greenwood, Tab 125A, p. 6.

- d. The Dangerous Goods Transport legislation does not prohibit the supply of the carbon monoxide cylinders to a residential address. He notes that it is common to deliver certain gases to residential addresses for plumbing and refrigeration, but that there is no common domestic use of carbon monoxide.⁷⁷ More generally, he notes that there is currently no control of the sale of carbon monoxide to the general public.⁷⁸
- e. Although carbon monoxide is highly flammable, it is not explosive in the sense normally covered by Explosives Regulations.⁷⁹ Mr Greenwood concludes that it would be inappropriate to extend the definition of “explosive” to include carbon monoxide.⁸⁰
- f. Mr Greenwood also concludes that Work Health and Safety legislation does not include powers to limit the sale of products or impose licensing other than for major hazardous facilities, so it is an inappropriate mechanism for regulating the supply of carbon monoxide.⁸¹ This is consistent with the statement and evidence of Dr Daniel Massey of SafeWork NSW, who was also called as a witness at this inquest.⁸²
- g. Carbon monoxide is one of 96 gases currently of “security concern” but is not amongst the 15 chemicals currently covered by the National Code of Practice for Chemicals of Security Concern. This Code of Practice is not a requirement on industry and does not prohibit supply of chemicals, but recommends that supply is monitored and recorded and unusual use is reported. Businesses are encouraged to adapt the Code of Practice for all 96 chemicals but this is not required.⁸³

118. Mr Greenwood recommends that if the supply of carbon monoxide is to be regulated, it should be done through Schedule 7 of the Poisons and

⁷⁷ Expert Report of Richard Greenwood, Tab 125A, p. 7.

⁷⁸ Expert Report of Richard Greenwood, Tab 125A, p. 8.

⁷⁹ Expert Report of Richard Greenwood, Tab 125A, p. 7.

⁸⁰ Expert Report of Richard Greenwood, Tab 125A, p. 9.

⁸¹ Expert Report of Richard Greenwood, Tab 125A, p. 8.

⁸² Statement of Dr Daniel Massey, Tab 61, p. 3.

⁸³ Expert Report of Richard Greenwood, Tab 125A, pp. 11-12.

Therapeutic Goods Legislation, otherwise known as the Poisons Standard.⁸⁴ He notes the legitimate uses of carbon monoxide in the pharmaceuticals, electronics and chemical manufacturing industries.⁸⁵ He recommends that the addition of carbon monoxide to Schedule 7 be limited to mixtures above a specified level in order not to unduly restrict access to carbon monoxide for these legitimate uses.⁸⁶ Mr Greenwood suggests that scheduling carbon monoxide gas mixtures of 5% or greater by volume seems a reasonable option with minimal impact on legitimate use.

119. A copy of Mr Greenwood's expert report was provided to industry representatives for the National Industrial Chemicals Notification and Assessment Scheme ("NICNAS"), ANZIGA and BOC for consideration and comment, particularly in regards to the proposed recommendation that the supply of carbon monoxide be regulated through Schedule 7.

120. A response was received from Kathryn Walton at ANZIGA on 3 April 2019. On behalf of ANZIGA, Ms Walton identifies a number of implications and issues that would limit the utility of regulating carbon monoxide through Schedule 7:

- a. Carbon monoxide has legitimate uses and Fernando, who had a legitimate business account, could have easily specified a business need for the industrial gas. Accordingly, the scheduling of carbon monoxide would be unlikely to have stopped access to it in this situation, which appears to be a unique and isolated case.
- b. There are many other gases other than carbon monoxide capable of being used to inflict intentional harm and which are freely available to the public. Ms Walton submits that, if access to carbon monoxide was further restricted, people would seek to gain access to another, less restricted type of gas, such that the scheduling of carbon monoxide would not reduce the overall number of deaths resulting from intentional inhalation of gas.

⁸⁴ Expert Report of Richard Greenwood, Tab 125A, p. 12.

⁸⁵ Expert Report of Richard Greenwood, Tab 125A, p. 6.

⁸⁶ Expert Report of Richard Greenwood, Tab 125A, p. 12.

- c. Including carbon monoxide in Schedule 7 would introduce new levels of regulation and have significant cost implications for both suppliers and users. It will result in significant impediments for legitimate use of carbon monoxide. In her evidence, Ms Walton was unable to identify what those costs might be and indeed particularise any specific impediment.
- d. As noted above, carbon monoxide is one of 96 gases currently of “security concern” but is not amongst the 15 chemicals currently covered by the National Code of Practice. Ms Walton notes that, at the time this list was put together, a detailed risk assessment was undertaken of each of the 96 gases including carbon monoxide and a decision was made not to include it on the list of 15 chemicals. Those assisting me were unable to access a copy of the risk assessment as it includes confidential information the subject of national security concerns.⁸⁷
- e. Ms Walton also indicates in her statement that ANZIGA has been considering product stewardship guidelines within the industry and will be fast tracking the development of these guidelines. She states that, in light of this incident, ANZIGA will undertake to strengthen its efforts to raise awareness amongst its industry members and agents of the potential for misuse, and limit availability of such products via online stores and websites.

121. During her evidence, Ms Walton indicated she would prefer that the members of ANZIGA be free from “impediments” that might arise from Mr Greenwood’s proposals. However she did not articulate or put forward any difficulty that she envisaged would be curtailed nor did she suggest they were onerous or insurmountable or likely to adversely affect any commercial operations. Her position was that she would prefer ANZIGA to be free to manage the protocols of the gas supply industry in Australia and NZ.

⁸⁷ Statement of Kathryn Walton, T125H.

122. Those assisting me also received a response from NICNAS on 4 April 2019. Mr Lewis Norman gave evidence and he confirmed that the response was on behalf of NICNAS.

- a. The response received from NICNAS confirmed that there are no known legitimate domestic uses of carbon monoxide.
- b. NICNAS agreed that the recommendation proposed by Mr Greenwood, namely to list carbon monoxide as a Schedule 7 poison, is a “practical and worthwhile step” and noted that the existing penalties available to enforcement agencies in NSW could go some way to deterring industrial suppliers from servicing intentional misuse. However, NICNAS note that scheduling carbon monoxide would not necessarily restrict or prohibit domestic supply and misuse of CO, as it would likely still be subject to exemptions and could be sourced from other jurisdictions that do not require authority before supply.
- c. NICNAS suggest that consideration could be given to requiring a licencing or authority system for the supply of compressed carbon monoxide, which could complement the scheduling mechanism proposed by Mr Greenwood. Scheduling of carbon monoxide could also be augmented by seeking additional specified controls of carbon monoxide under Appendix J of the Poisons Standards.
- d. NICNAS set out a process by which this could be achieved; namely, through an application to the delegate of the Secretary of the Department of Health by an appropriate NSW Government Agency. A review process would then take place to determine whether the delegate agrees to amend the Poisons Standard, which would involve consultation with industry.

123. Mr Norman thought that Ms Walton’s comments in assessing “impediments and impositions” was a position consistent with most expected responses from industry when it is sought to put into place any regulations relating to restrictions of product. Mr Beckett examined Mr Norman about the efficacy of Schedule 7 if its adoption by each state is not mandatory and

whether the inclusion of carbon monoxide in Appendix J would achieve the purpose sought – to restrict access of carbon monoxide for non-commercial when clause 20 of the *Therapeutic Goods Act 1989* (Cth) only applies to commercial use. Mr Norman did not change his position of support for carbon monoxide to be added.

124. Mr Beckett pointed out to Mr Norman that in 2014 NICNAS recommended that no additional chemicals, including carbon monoxide, should be placed on the schedule. Mr Norman said that recommendation was based on an assessment of known industrial usage. He denied that NICNAS's position had changed in relation to that recommendation. He said the support now of Mr Greenwood's proposals was due to the consideration of a different aspect, namely one outside industrial usage, but that no formal NICNAS assessment had occurred as a result of these deaths, the request of those instructing me or the receipt of the Greenwood Report. Mr Norman was reluctant to comment on BOC's Product Stewardship in contrast to an industry response required in the circumstance of a referral to the Secretary delegate under s. 52 of the *Therapeutic Goods Act 1989* (Cth).

125. Mr Brittliff on behalf of BOC also comments on Mr Greenwood's proposed recommendation. Similar to Ms Walton, he notes the practical issues and implications that may arise if carbon monoxide was included in Schedule 7, including that:

- a. Even under BOC's revised processes, given the efforts to which Fernando went to plan his death and that of his family, it is possible that even if he did require a licence or authority to obtain the carbon monoxide he would have similarly misled those issuing any licence or authority by specifying a false legitimate use.
- b. Fernando was determined to cause harm to others and if he had not used carbon monoxide, there are plenty of other gas options that he could have used which are not contained in Schedule 7.

126. Whilst the different positions of BOC and ANZIGA on the one hand and Mr Greenwood and NICNAS on the other were aired in this inquest, it is on

balance, a matter about which warrants would further discussion in a specialised forum.

127. BOC has made laudable responses to address the ease by which a member of the public can access carbon monoxide by BOC's initial removal of its availability from its website, to the re-introduction being limited to commercial customers and the implementation of the Product Stewardship (as well as the Sensitive Product Stewardship) together with the End User Declaration. However, in practice it is difficult to detect a person intending to misuse a gas. As Mr Beckett elicited in his examination of witnesses, if a customer with ill intentions lies and fabricates the identity and purpose for the order of gas, it is very difficult for industry personnel, be they a trained delivery truck driver or a product manager, to identify such a customer.

128. There was no conduct or process engaged in by BOC or the Linfox drivers, or indeed Mr and Mrs Campos, about which this court would be critical. Fernando had masterfully disguised and misrepresented himself to carry out his ill-deed against his family members.

129. There may well be cost implications which ANZIGA seeks to avoid being passed onto its members and thus its customers (though there is no evidence of what that cost, if any, may be), and it may be that due to the market of pure carbon monoxide being so small that it does not ultimately attract any further regulation. But the fact remains, pure carbon monoxide is relatively easily available, it has a high lethality because it is undetectable being colourless and odourless and it is highly toxic.

130. If the inclusion of carbon monoxide as a poison on Schedule 7 is limited to mixtures above a certain percentage such as 5% or whatever the case may be, the likely impact on the industry would likely be nominal. The concern that consumers would, rather than deal with the impediments involved in obtaining carbon monoxide by Australian based industry members, make international internet importations is frankly an additional reason as to why

the gas should be included on Schedule 7 so that if there are currently absent protocols in relation to such importations that situation would be addressed.

131. Counsel Assisting suggests that I make a recommendation to the Secretary's delegate as suggested by Mr Greenwood. Mr Beckett submits that BOC would not oppose such a course but that I should not specify that proportion of carbon monoxide that the gas contained, as further investigations in that regard would need to be made.

132. At the close of the evidence of this inquest, as there were no Colombian family members present to make a statement to the court, Ms Peta Rostirola made a statement on behalf of the friends of Maria, Elisa and Martin. Maria's friends also brought into court a number of paintings that the children had created and which have been printed.

133. Those paintings are beautiful and gave me pause to think of the gifts and contributions the Manrique children would have given due to the nourishment and opportunities their mother, friends and carers provided them. But their lives were stolen by someone who should have been their protector and provider. I have no doubt that Fernando loved his children which I suppose is evidenced by his method of taking their lives, but he had no right to do so.

134. Peta's words and the statements of Maria's friends make it clear that Maria and the children would, if left to live, have been more than happy on their own; indeed, they would have likely prospered. Maria was accustomed to managing the children on her own regardless of Fernando's whereabouts and contributions. She had secured her TAFE Certificate 3 qualification to work as a teacher's aide, and she had the supportive network of community. Maria and the children had everything to live for.

135. What motivated Fernando is unclear. The evidence establishes that it was just after Maria had told Fernando that the marriage was over and he had to find somewhere else to live that he put into action his plan to take their lives.

136. When a husband or partner takes the lives of his family and then himself, the community response is often why not just take your own life? In this case, though the deaths inflicted on Maria, Elisa and Martin were painless and quick and without their having any idea what had befallen them, it was still family violence. It was violence in circumstances where the perpetrator did not accept that the relationship was over and that there were adjustments to be made by everyone. In this case the adjustments to be made were very much Fernando's, as Maria and the children, by his absence half the time and lack of involvement the other half, had become used to being on their own.

137. I suspect that given the evidence about Maria and Fernando's personalities, Maria was the emotionally capable and confident member of the relationship who had developed a supportive community whereas Fernando probably could not imagine how it would be for him on his own without her support and without the comfort of a family where he could come and go and do as he pleased. Though he had the affairs and frolics in the Philippines, he did so in the context of having Maria as his solid base back in Australia.

138. There was evidence that he was in financial stress, but frankly, it was not that large to be called insurmountable and given the money he was spending on his affairs and lifestyle, it appears to be a somewhat self-inflicted and self-indulgent position. If it had a part to play in these deaths, it was an unjustifiably high price and unfairly imposed on Maria and the children.

139. There is evidence that Fernando told Mr Campos a couple of years earlier that whilst the marriage was effectively over and he had other relationships, it would not be alright if Maria did so. This indicates that Fernando had a possessive attitude towards Maria and that he would likely find it difficult to accepting Maria wanting to establish another life. Ironically, unlike Fernando, Maria put her children's needs before her own as her time, interest and energy was devoted to them rather than finding another partner.

140. Counsel Assisting has raised a number of matters which suggest that Fernando's intentions about ending his own life are unclear. Mr Spencer, on behalf of the Manrique family, submits that I would make a finding that Fernando did intend to take his own life. He submits that if I did find that Fernando's death was a suicide, given the public interest in this matter, I would allow the publication of such finding under s. 75(5).

141. To determine that a death is suicide, the evidence about the person's intentions needs to be clear, cogent and exact. Fernando did not leave any record to explain his actions towards his family or towards himself. Accordingly, the evidence must be such to enable an inference to be drawn as to what his intentions were. His intentions towards his family are clear. He secretly installed a mechanism into the premises whereby lethal gas would end the lives of three people whilst they slept. The evidence of his lies and deceptions to the gas suppliers and deliverers, and to Mr and Mrs Campos, indicate that he knew what he was doing and that he knew it was wrong. He knew that the gas was highly lethal and would affect its purpose. He must have known that if he was likewise exposed he would die.

142. The evidence shows that Fernando had not made any arrangements to leave the house or indeed the country. He had not taken anything from the house such as a suitcase of clothes, there is no evidence that he had hotel or flight bookings or cash whereby he could travel to an airport, purchase a flight and leave. There is no evidence that he intended to survive and be accountable for his actions. He had destroyed his telephones and all the hard drives of his computers to ensure that there was no evidence whereby, even in his absence, he would be accountable.

143. Rather than lie down and go to sleep, Fernando likely waited until Maria and the children and the dog were asleep before turning on the gas. There is evidence of alcohol having been consumed in the family room and there was a small amount of alcohol in Fernando's blood. Fernando had installed two gas cylinders which may indicate that he was uncertain as to what quantity

would be effective but as one was completely full and had not been turned on, Fernando did not need to return to the shed to do so.

144. The position in which Fernando's body was found face door in the hallway was such that he was either leaving or entering a bedroom room. The evidence is sufficient to find that Fernando had planned to suicide but it is likely that his intent could not manifest until the motivation behind it had been complete and that moment arrived upon the death of Maria, Elisa and Martin.

145. I agree with Mr Spencer's submission that I should find that Fernando's death was a suicide. I also agree that it is desirable, in the interests of the public, to make an order under s. 75 of the Act so that a report of these proceedings be published. That public interest includes that the deaths of Maria, Elisa and Martin identified as being domestic or family violence is not overlooked by a finding that Fernando suicided.

Findings

146. I make the following findings:

Maria Claudia Lutz, died between 16-17 October 2016 at 68 Sir Thomas Mitchell Drive, Davidson, NSW 2085 of carbon monoxide toxicity due to a known person, without her knowledge, deliberately dispersing carbon monoxide gas into the family home while she slept.

Elisa Manrique died between 16-17 October 2016 at 68 Sir Thomas Mitchell Drive, Davidson, NSW 2085 of carbon monoxide toxicity due to a known person, without her knowledge, deliberately dispersing carbon monoxide gas into the family home while she slept.

Martin Manrique died between 16-17 October 2016 at 68 Sir Thomas Mitchell Drive, Davidson, NSW 2085 of carbon monoxide toxicity due to a known person, without his knowledge, deliberately dispersing carbon monoxide gas into the family home while he slept.

Fernando Manrique died between 16-17 October 2016 at 68 Sir Thomas Mitchell Drive, Davidson, NSW 2085 of carbon monoxide toxicity after deliberately exposing himself to carbon monoxide gas to cause his death.

Recommendations

147. Counsel Assisting put forward a proposal of recommendations to address the issue of the availability of carbon monoxide for illegitimate use. Those recommendations were in relation to including the gas in the Poisons Standard as well as addressing the delivery effected by BOC. As noted above, Mr Beckett submitted that BOC did not oppose a referral to the Secretary but suggested that a percentage volume as advanced by Mr Greenwood not be included as that could be addressed during the referral process. Mr Beckett posed difficulties with the recommendation that BOC implement a system whereby the delivery driver was involved in checking compliance with the End User Declaration as well as difficulties training drivers about the range of legitimate use of carbon monoxide. ANZIGA supports its member BOC's position.

147. Since adjourning these proceedings, I have received a letter from Linfox essentially adopting the submissions made by Mr Beckett on behalf of BOC, emphasising their preference that the availability of a dangerous gas be managed upstream in the order supply chain rather than downstream at the delivery truck driver's end. Whilst I understand that position I think that the evidence from the Linfox drivers, Mr Lamont and Mr Reilly, made it very clear that though they didn't know what the legitimate use of carbon monoxide was, they both thought that delivering it to the residential address was odd.

148. The fact remains, the delivery drivers are an important link in ensuring the safe distribution of gas which includes that it not be used for illegitimate purposes. It is unlikely to be foolproof but it is imperative that useful means of assurance are in place. It is preferable that truck drivers are well informed and receive support and justification with any query about a

suspect delivery. Accordingly, I have determined that recommendations should be made in this regard.

149. I have also received submissions from Ms Beauchamp the Secretary of the Australian Government Department of Health. She advises that the Therapeutic Goods Administration proposes to initiate a process for consultation to consider the inclusion of carbon monoxide in the Poisons Standard and indicated a timetable, including that a notice of proposed changes will be provided by 29 August 2019 and a decision made on 23 April 2020.

150. Accordingly, I make the following recommendations:

1. To the Secretary, Department of Health (Cth) I recommend that:
 - a. the Secretary consider exercising her power under section 52D and 52E of the Therapeutic Goods Act 1989 (Cth) by her delegate, the Therapeutic Goods Administration, initiating a process for consultation with the Advisory Committee on Chemical Scheduling and the public to consider amending the Uniform Scheduling of Medicines and Poisons ('Poisons Standard') by:
 - i. including carbon monoxide; and
 - ii. adding carbon monoxide to Appendix J of the Poisons Standard.
2. To BOC, I recommend that BOC consider:
 - a. providing additional measures to enable the assurance of End User Declaration compliance at the point of delivery;
 - b. with reference to this case, include in the Driver Training Package:
 - i. education about the legitimate use of carbon monoxide; and
 - ii. a "Dynamic Risk Assessment" to involve the identifying of warning signs as to whether the gas is for a legitimate purpose (such as delivery of an industrial gas to a residential address) and taking appropriate action (such as call BOC's Product Stewardship Manager) before completing a delivery.

3. To ANZIGA, I recommend that:

- a. ANZIGA continue to take steps to urge its members to implement controls on the supply of compressed carbon monoxide at both the point of sale and distribution, including by encouraging its members to implement:
 - i. measures similar to the End User Declaration, Sensitive Chemicals Declaration and Product Stewardship Customer Screening Protocol implemented by BOC; and
 - ii. specific training for drivers in relation to carbon monoxide, in similar terms as that recommended to BOC.

151. I wish to again pass on my sincere condolences to the friends of Maria Elisa and Martin and I thank them for coming to this inquest to honour their lives. I also pass on my condolences again to the Lutz and Manrique families in Colombia.

Magistrate E Truscott
Deputy State Coroner
17 May 2019