SHERIFFDOM OF SOUTH STRATHCLYDE, DUMFRIES & GALLOWAY AT AIRDRIE

UNDER THE FATAL ACCIDENTS AND SUDDEN DEATHS INQUIRY (SCOTLAND) ACT 1976

2010 FAI 11

DETERMINATION

by

SHERIFF ALFRED D VANNET

following an Inquiry held at
Airdrie Sheriff Court
into the death of

MARTIN JAMIESON

Airdrie: 15 February 2010

The Sheriff having considered all the evidence adduced and submissions thereon

DETERMINES

1) *in terms of section 6(1)(a) of the 1976 Act*

that Martin Jamieson, aged 40 years, born 12 May 1968, residing at 34 Alexander Avenue, Viewpark, Uddingston, was pronounced dead at 2040 hours on Wednesday 21 May 2008 at Monklands District General Hospital;

2) *in terms of section 6(1)(b) of the 1976 Act*

that the cause of his death was Methadone and Olanzipine intoxication;

3) *in terms of section 6(1)(e) of the 1976 Act*

a) that all personnel, both police officers and civilian staff, involved in the initial processing of a person in custody must ensure that all relevant information about the person is communicated to the Custody Officer;
b) that Custody Officers must ensure that during initial processing they undertake a risk assessment of the person based on all relevant information provided to them and their own observations of the person, all in accordance with Force Procedures;
c) that consideration should be given by Strathclyde Police to the 'mentoring' of new or relief Custody Officers by more experienced colleagues;
d) that consideration should be given by Strathclyde Police to the holding, at an appropriate time, of a review of the circumstances of such an event with all staff involved to ascertain if there are lessons to be learned for the future.

NOTE:

Introduction

[1] I heard evidence in this Inquiry on 6 days between 9 November and 15 December 2010. The evidence was led by Mrs W Hay, procurator fiscal depute. The family of the late Mr Jamieson were represented by Mr B Mohan, the Chief Constable of Strathclyde Police by Mrs C Martin and Sergeant Comrie, the custody sergeant on the night of Mr Jamieson's death by Mr A Gillies. I am grateful to them all for the professional manner in which the evidence was led and tested and the Inquiry conducted.

[2] This is a mandatory Inquiry in terms of section 1(1)(a)(ii) of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 ("the 1976 Act") as Mr Jamieson was, at the time of his death, in legal custody. Although the statute does not require such, the "Objectives" of the Inquiry stated in the petition by the procurator fiscal were "1. To publicly establish the circumstances of the relevant death; 2. To discover how and why the deceased died in police custody."

Martin Jamieson

[3] I heard evidence from the deceased's brother, **Mr James Jamieson**, who attended throughout the Inquiry with other family members. He confirmed that his brother was 40 years old, single, unemployed and resided in Alexander Avenue, Viewpark, Uddingston. Mr Jamieson lived not far from him. His brother was a drug addict, with a long standing addiction to heroin. He was on a methadone programme at the time of his death and appeared to have been reasonably stable for the previous six months. Mr Jamieson did not see a great deal of his brother and did not entertain him socially in his home due to that addiction and his lifestyle. Mr Jamieson said that he very rarely saw his brother with alcohol and described him as "never being a big drinker". The last time he had seen him drinking alcohol was at their mother's funeral five years previously. He had expressed surprise to the police on the night of his brother's death when told that he had been arrested for being 'drunk and incapable'. His brother had come to the attention of the police fairly regularly over the years and when arrested was usually taken to Motherwell police office where he was known to the officers there.

[4] Mr Jamieson had seen his brother in the street on the Sunday morning prior to his death when his brother had borrowed money to buy a newspaper. He was described as being 'alright' at that time.

[5] Mr Jamieson described his brother as being around 5 feet 10 or 5 feet 11 inches in height and around 13 stone in weight.

[6] **Mr Stewart Smith**, a long-standing close friend of Martin Jamieson, described him having a regular routine of getting up, going to the chemist for his methadone and seeing his young son off to school. The boy lived with his mother close to Martin Jamieson's

house. Since moving to Coatbridge some four years ago, Mr Smith saw Mr Jamieson twice a week but previously had seen him daily. Mr Smith had a heroin addiction in the past and had also been on a methadone programme up to 18 months before Martin Jamieson's death. They got to know each other and had become friendly in the 1990's when they both attended the same chemist to collect their methadone. Mr Smith agreed that the suggestion that they had "dragged each other down" was "probably fair". Mr Smith thought that Mr Jamieson had been prescribed anti-depressants in addition to which he also took diazepam (Valium) which he bought on the street when he could afford it. He could take up to 20 valium tablets at a time. According to Mr Smith, Mr Jamieson would also take cannabis from time to time.

According to Mr Smith, Mr Jamieson only took alcohol very occasionally. He had intended to meet up with him on his birthday (12 May) for a drink but had been away. On the night of his death, Mr Jamieson was supposed to come to Mr Smith's house to watch a champions' league football match on television and he would have had a drink then. Mr Smith said that he would drink soft drinks and the deceased would drink 'alcopops' – four bottles of which would "get him drunk".

[7] Mr Jamieson had seemed 'perfectly fit' when Mr Smith had last seen him on the Monday prior to his death (19 May) and said that there had been 'nothing unusual' about him that day.

[8] Mr Smith gave evidence that he had been prescribed olanzipine on a monthly basis from time to time. He described the olanzipine pills as differing in colour and size depending on the strength and that one of them was blue. Mr Smith described having to take one pill at night "to stop thoughts in your head running around". Their effect was to make him drowsy and sleepy.

[9] When asked if Mr Jamieson might have taken some of his olanzipine, Mr Smith replied: "Not unless he stole them". He could not discount the possibility that he had taken some from his house. He was prescribed a month's supply at a time. There were boxes of pills lying around in his house and he could not say if any were missing. He had never heard him speak of the drug.

Medical background

[10] **Dr John Bowman** is a partner in the general medical practice in Uddingston of which Mr Jamieson had been a patient since 2004. Prior to joining the practice, Mr Jamieson had been diagnosed with a heroin addiction from 1993 and had been placed on a methadone programme. He also had a history of depression and anxiety since 2004 and was being prescribed anti-depressants and attending drug addiction services. He was prescribed on a weekly repeat prescription basis - fluoxetine (Prozac) 40 mg per day and amitriptyline – 25 mg at night. Methadone was prescribed by the Addiction Service and he was dispensed 80 mls of methadone which he received daily under the supervision of the pharmacist.

[11] Mr Jamieson had last been seen at the practice at the beginning of March 2008 when he admitted buying the sleeping tablet Nitrazepam 10 mg (Mogadon) on the street. Dr Bowman could find no reference in the medical records to the deceased ever having been prescribed Olanzipine. There was no reference to alcohol in the medical notes and Dr Bowman did not recall alcohol being an issue. There was a record of telephone consultations when he had phoned the practice in an agitated state and was prescribed short doses of diazepam. Such periods of agitation are not uncommon in those with a drug addiction and much of his agitation concerned his son's illness. A referral to a psychiatrist was offered in the summer of 2007 but refused.

[12] Dr Bowman said that he would be very cautious about prescribing Olanzipine – a psychotropic drug – to any patient. This particular drug was normally prescribed by a consultant psychiatrist. He described Olanzipine as a powerful drug which would make a patient drowsy.

[13] **Mr Brian Norton**, who was formerly a charge nurse with the integrated addiction services, had taken over Mr Jamieson's case from another nurse in the summer of 2007. Prior to that Mr Jamieson had engaged with the service for a number of years. He had not always been reliable in attending for appointments, especially when his son was unwell, but always contacted the service by phone to cancel and rearrange appointments. His past history had been of heroin and benzodiazepine misuse. He was described as a person who drank socially and occasionally 'binged'. He had told Mr Norton that he intended to get

drunk on his 40th birthday (12 May). Mr Norton said that he presented fairly well and never attended appointments intoxicated or under the influence of drugs. Mr Jamieson reported that from time to time he would buy valium – 20 at a time, which he would take there and then. He was open in terms of his drug misuse and consistent in what he said he had taken which was borne out by tests. His son's illness appeared to be a trigger for his misuse of illicit drugs.

[14] **Ms Lesley Mills**, a pharmacy dispenser with Dickson's Chemist, Viewpark, Uddingston, had worked there for around nine years and had known Mr Jamieson for that time. He attended the pharmacy daily for his methadone but also came into the shop as a customer. He was on a repeat daily prescription of 80 mls of methadone and that amount had been dispensed to him by the witness personally on the morning of 21 May. Ms Mills described him as being absolutely fine that morning and there being nothing out of the usual. She agreed in cross examination that he was shabby and unkempt looking but said that he was often like that. When her statement to the police given two days after his death was put to her, she accepted that she must have told the police that he looked "rough" and "tired and heavy-eyed". He did not appear to have been drinking. She said that he would always chat to the staff in the pharmacy and was a "laid back guy" who never gave them any trouble. She did not think that he was on any other repeat prescription at the time. Ms Mills thought that he had previously been prescribed Olanzipine.

21 May - Pre-arrest

[15] In the early evening of 21 May, **Mr John Campbell** was in his car approaching the roundabout at Mossend between Bellshill and Holytown when he saw Mr Jamieson who he knew by sight as local to the area. When Mr Campbell first saw him, Mr Jamieson was running and looking back as if he was being chased or had been in an altercation with someone. He kept looking back and looked in some distress. When he drove on to the roundabout, Mr Campbell said that he saw blood on the lower part of Mr Jamieson's face. He was sure about this. Mr Campbell was concerned about the man and continued to watch him. Mr Jamieson staggered or tripped as he was looking back and went head

first into the railings at the roundabout. Mr Campbell agreed that where he had seen the man was quite near to the Aldi supermarket.

[16] Mr Campbell considered that the man needed help and came off the roundabout exit to go to the police office in Bellshill to report the matter. On the way he saw a police car which he stopped and told the two police officers what he had seen, namely, that he had "seen a guy running along the street and that he'd gone head first into the barrier". Mr Campbell said that he had not told them about seeing blood on the man's face or him looking back but just that he had staggered and fallen into the barrier. The police officers then headed off in that direction.

[17] Mr Campbell was clear that he had reported the matter because he considered that the man was in need of assistance and not because he perceived him to be drunk or causing trouble. He agreed, when it was put to him, that he had expressed concern to the police about a man "who had fallen down" and "was concerned for the welfare of a male along the street". He was in no doubt that he was reporting a man who needed help.

Arrest

[18] Mr Jamieson was arrested by two officers, then based at Coatbridge – **Constables Neil Lindsay and Peter Moran.** Both are experienced officers – the former having nine years' service and the latter 26 years' service. Prior to encountering him, the officers had been involved in the arrest of a female for a drink/driving offence. They had taken her to Bellshill Police Office and had left there when they were flagged down by Mr Campbell at about 6.30 pm. He had expressed concerns about a member of the public nearby who had fallen or been assaulted. The officers went to look for the man and Constable Moran pointed out Mr Jamieson, who fitted the description given by Mr Campbell. Constable Lindsay described him as sitting slouched in the bus stop. They drove past him, turned their car around and on approaching him Mr Jamieson was on his feet trying to cross the road. He stumbled and fell forward on to the roadway causing a car to brake. He appeared to be under the influence of drink and drugs. They described him as being generally unclean and slightly dirty but did not see blood on his face. They were concerned for him as they did not believe that he was capable of looking after himself. He could not cross

the road without falling over and they could not see how he could make his way home without coming to harm.

[19] By the time the officers had reached him, he had reached the other side of the road. The officers had to assist him to stand up and leaned him against a bus shelter. They did not believe he could stand unassisted. He was able to give his name and that he lived in the Bellshill area. When asked if he had been drinking, he said something along the lines that he had had "one too many sherbets". Although he conceded he could not remember very well, Constable Lindsay believed that the deceased smelled of alcohol. Constable Moran said that initially he could smell alcohol but that once back at the police office it was not a strong smell. The officers believed him to be drunk and arrested him for being drunk and incapable. They took the remark about "one too many sherbets" to mean that he had been drinking. They said that there was nothing to indicate that he had ingested drugs as well as alcohol. He had no visible signs of injury and the officers did not see blood on his face.

[20] They described him as compliant when arrested and he was placed in the police car and taken to Coatbridge Police Office rather than the nearby Bellshill Police Office, which is used solely for processing females who have been arrested. The officers did not handcuff him and Constable Lindsay said that he sat in the back with him. He described him as appearing slightly agitated and reaching down to his feet. He mumbled something about a few pints which the officer took to mean alcohol. Otherwise he posed no problems for the officers.

Coatbridge Police Office

[21] On arriving at the Police Office in Coatbridge, Constable Moran parked the police vehicle at the back door and they took Mr Jamieson into the charge bar. From this point onwards, events are recorded on the CCTV system at the Police Office and the footage from the system was viewed in the course of the Inquiry. Mr Jamieson was being supported and half carried by the two officers. He was taken to the charge bar with one officer on either side of him holding his arms. Shortly after their arrival the custody officer, Sergeant Comrie, came in to the charge bar, spoke briefly to the arresting officers

and left. The two officers remained at the charge bar supporting Mr Jamieson for some time. Constable Lindsay estimated it to be at least five minutes if not longer.

[22] During this wait, it is apparent from the video footage and was clear from their evidence that the officers experienced difficulty in holding him up. He slouched down and at times he rested his head on the charge bar. Constable Lindsay described him as dropping his weight on to their arms and his chest on to his knees. He was of the view that he was doing this deliberately and repeatedly told him to stand up. He had an arm under his armpit but changed this to a 'goose-neck' hold in an endeavour to make Mr Jamieson support his own weight. It is very apparent from the CCTV footage that the officers are experiencing considerable difficulty in holding him up. If they had not done so, he would have collapsed to the ground.

[23] At one point while they were waiting, Constable Moran raised the possibility of allowing Mr Jamieson to sit down. Although there is no seating on the 'prisoner' side of the charge bar there was a seat in an adjoining room at the rear of the charge bar. Constable Lindsay said that he did not favour allowing him to sit because he thought he would be processed swiftly, was sure that the deceased was being deliberately obstructive and was concerned that if they let him sit down they might experience difficulty in getting him back up again. Constable Lindsay had a long standing back injury and he was experiencing enough discomfort trying to hold him up.

[24] Eventually the custody sergeant arrived and the procedure of processing Mr Jamieson commenced. There had been a delay of about six minutes from the time of their arrival in the charge bar and the start of the process. Throughout the process he had difficulty in standing upright. Constable Lindsay's opinion was that he was deliberately not supporting himself and was drawing his knees up to his chest. Mr Jamieson proffered a piece of paper with a different address on it from the one he had given and could not give an explanation for the difference.

[25] When the custody staff went to search him, his demeanour changed. He appeared to attempt to back away. Constable Lindsay said that he became a bit more aggressive and started to struggle with them. He moved from being compliant to resisting. Because of this behaviour, Constable Lindsay placed him in a restraint hold. Constable Lindsay said

that he suspected that he was trying to hide something. Given the difficulties they were experiencing the officers and custody staff took him to the cell area to conduct the search.

[26] Constable Moran asked him if he had taken anything that day but Constable Lindsay did not hear the reply. Constable Lindsay thought that he might have mentioned valium but had not been concerned about that at the time. However, he agreed that it should have been passed on to the custody officer. He did not recall him mentioning that he was on methadone. He had told the custody officer that Mr Jamieson had taken alcohol. Constable Lindsay said that there was a smell of cannabis from Mr Jamieson but "not terribly strong" and it did not give them cause for concern. He believed that mention of the smell of cannabis was made later on. Constable Lindsay said that he did not consider the possibility of his condition being due to medical reasons.

[27] Mr Jamieson was described as appearing dirty. One of the FCSO's commented about there being "black stuff" around the Mr Jamieson's mouth. Constable Lindsay said that there were "a lot of smells coming from him" although the smell of alcohol was not particularly strong. His skin colour was pale and his speech very mumbled. His breathing was loud and regular but did not cause them concern. They did not attribute it to anything other than him being drunk. Constable Lindsay thought that the sound of Mr Jamieson's breathing on the CCTV soundtrack was louder than it had been in reality. He neither complained of feeling unwell nor asked for a doctor. Constable Lindsay said that he assumed the man was drunk and did not consider that he needed medical attention or to be taken to hospital. He said that if they had had any concerns about his condition when they were in the police car they would have taken him straight to hospital. Constable Lindsay is now serving with a police force in England and said that it had become common practice in that force to take all persons arrested for being 'drunk and incapable' to hospital to have them "checked out". He said that if he had known at the time of arrest the information now available about his condition and the reasons for it, he would have taken him straight to hospital.

[28] After he had been processed, he was able, with assistance, to walk to the cell but still struggled and resisted while being searched there. When the arresting officers left he was lying on the cell floor but starting to move about. One of the Force Support Officers commented after they had been in the cell that there was no smell of drink from him.

[29] Constable Lindsay described the policy in force at the time in relation to "drunk and incapables" to be to check to see if there had been previous arrests within the last three months then keep the person in the police office until sober. If there were no previous arrests the person would be released with a warning, once sober. If there was a previous arrest or arrests the person would be released when sober and a report submitted to the procurator fiscal.

[30] **Constable Moran** shared his colleague's assessment that Mr Jamieson was under the influence of alcohol. He was acting like a drunk person and was arrested for his own safety. It had been difficult to hold him up as he kept resting his weight on the officers. Constable Moran thought this had been intentional. Mr Jamieson was well built and did not have the much slighter build of a regular drug user. He was compliant initially but became more difficult to deal with. Constable Moran believed this was because he was drunk. He became difficult as they were trying to search him.

[31] Before being processed and while they were awaiting the custody sergeant, Mr Jamieson said that he had taken 2 valiums and some cans. Constable Moran said that he had mentioned that to Sergeant Comrie at a later stage. Constable Moran said that he could smell smoke and body odours but did not smell cannabis coming from Mr Jamieson. He did not hear him mention methadone. He did not consider that he required medical attention or required to go to hospital.

[32] He recalled FCSO Scoular mentioning that Mr Jamieson had dirt on his lip and thought that this could have resulted from a fall. He did not see any injuries. He recalled having a conversation with FCSOs Scoular and Nisbet after Mr Jamieson was in his cell when he mentioned to them that he was not smelling as strongly of alcohol as the last person they had dealt with – namely the female they had arrested for a drink driving offence.

[33] When he left the cell, Mr Jamieson was seated on the mattress.

Police Custody & Security Officers

[34] Mr **John Scoular** is a civilian employee of Strathclyde Police with 14 years' service. His duties involve him in assisting in the charge bar and looking after the health

and welfare of prisoners. He first saw Mr Jamieson at the charge bar around 6.50 pm on 21 May in the presence of the arresting officers. He described him as being slightly slouched over the charge bar desk. They could not begin processing the prisoner until the custody sergeant was present and had to wait about 5 minutes for his arrival. The arresting officers said that Mr Jamieson was in for being drunk and incapable and according to Mr Scoular, he looked that way from the way he was standing and mumbling. As part of the process he would be asked for his personal particulars and would normally be asked if he had taken alcohol or drugs over the last 24 hours. Mr Scoular could not specifically remember this question being asked but said that "generally it would be asked".

[35] Mr Scoular had concerns that he might be concealing something because of his behaviour in starting to resist when being searched. He was pulling away as if he did not wish to be searched and Mr Scoular thought that he might be hiding something. Because of his behaviour he was taken to a cell to be searched but nothing was found.

[36] Mr Scoular said that he could smell alcohol from Mr Jamieson who was acting like many a 'drunk and incapable' he had seen in the past. Mr Scoular said that the usual check was done on the Police National Computer which revealed the existence of a 'marker' for drugs. After the deceased had been processed at around 6.50 pm and placed in a cell, Mr Scoular went to check on him at 7.15 pm. He would normally check every 15 minutes for the first hour and then every half hour thereafter. He made sure that he received a verbal response and that the prisoner was moving. Mr Jamieson was crawling about the cell on all fours. Mr Scoular said that he shouted and that Mr Jamieson looked up at him.

[37] The next visit was at 7.30 pm and undertaken by Mr Scoular's colleague Steven Nisbet. Mr Scoular was asked by Mr Nisbet to come to the cell as he could not obtain a response from Mr Jamieson from the hatch. Mr Scoular and Mr Nisbet both entered the cell and could obtain no verbal response from Mr Jamieson who was slouched in a seated position. Mr Scoular could find no pulse in his neck or wrist. Mr Scoular sent Mr Nisbet to inform Sergeant Comrie who attended at the cell. An ambulance was summoned. He was placed in the recovery position at which point fluid came from his mouth and nose.

They could still not feel a pulse. While awaiting the arrival of the ambulance resuscitation was commenced and continued until its arrival.

[38] Mr Scoular said that Mr Jamieson had been presented to them at the charge bar as a drunk and incapable and from that information and what he saw of his behaviour, that was what he thought he was. He could smell alcohol during the search. He did not say that he had taken drugs and did not complain of feeling unwell. He did not think that there was anything unusual about his breathing. He had seen a black mark to the side of the deceased's mouth. When Constable Moran said that he had fallen into a dirt area, that seemed a satisfactory explanation. He did not consider that he needed medical attention.

[39] Mr **Steven Nisbet** was the other PCSO on duty when Mr Jamieson was brought into the police office. He has 12 years' service in that role. He went into the charge bar when the arresting officers brought the deceased in to enquire what he had been brought in for. He then went to inform the custody sergeant, Sergeant Comrie, who was at that time on the telephone. He told the officers that the sergeant would be a few minutes.

[40] The officers told Mr Nisbet that Mr Jamieson was drunk and incapable and he could see that he was "under the influence". He was unsteady on his feet and being supported by the officers. His legs kept buckling under him as if they could not support his body weight.

[41] When the sergeant arrived and they started the procedure, Mr Nisbet's job was to search him. He heard Mr Jamieson being asked for his name, date of birth and address. A standard question during the procedure was whether the person was on any medication. When it was put to the witness that that question had not been asked, Mr Nisbet expressed surprise and said it would normally be asked in every case while obtaining a person's details.

[42] Mr Nisbet described Mr Jamieson as being held up by the officers and leaning towards the charge bar with his head. He considered that he was drunk rather than under the influence of drugs. He had to be restrained during the search. When Mr Nisbet went towards his trouser pockets, he said Mr Jamieson leaned forward as if to deliver a head butt. However, although he was restrained he was not struggling. The search could not be completed in the charge bar area and he was taken to a cell. The search was negative.

[43] He too had noticed black marks around Mr Jamieson's mouth but was told by the arresting officers that they had picked him up from the dirt. He thought that a feasible explanation. He did not remember mention of or a discussion about valium, methadone or the smell of cannabis. There was nothing to distinguish him from other drunk prisoners. He was sure he was drunk although he could not smell alcohol from him. He had seen drunker persons.

[44] Mr Nisbet was present when Mr Jamieson was checked in his cell at 7.15 pm. The check was done through the hatch. He could see the deceased crawling about the floor of the cell. Because they did not want him to fall, he was told to stay on the floor and he turned his face to them and replied 'aye'. Mr Nisbet had checked him again within 15 minutes. He opened the hatch and saw him sitting on the bench slouched forward with his head down against the wall. There was no verbal response from him so Mr Nisbet called his colleague and both entered the cell. They could not find a pulse and Mr Nisbet went to get Sergeant Comrie. They laid him down on the mattress and Mr Nisbet went to telephone for an ambulance. The two custody officers and the sergeant carried on resuscitation (CPR) until the arrival of the ambulance but there was no response..

Sergeant Graham Comrie

[45] **Sergeant Graham Comrie**, who was the custody sergeant on the night, has 20 years' police service and has been a sergeant since 2007. While principally concerned with operational patrol work as a sergeant, he acted as custody sergeant from time to time on a relief basis. He had received training in this role in August 2007. Prior to that night he had previously performed the role around 20 times. He was responsible for processing persons arrested or detained.

[46] He first saw Mr Jamieson in the company of the two arresting officers and told them he would be with them in a minute. He said that he then returned to another area of the police 'bar' to complete paperwork in respect of two other prisoners arrested on warrants who had been processed earlier. Statements of arrest were required for them from the arresting officers and he said that he liked to complete the paperwork for prisoners at the time of processing. He said that he had no concerns about the officers supporting Mr

Jamieson during that time. He had been informed that they were bringing in a 'drunk and incapable'.

After "a few minutes" he returned to the charge bar with the PCSOs.

[47] He saw Mr Jamieson being held by the arms by the arresting officers and leaning on the charge bar area. The sergeant had no concerns about either the deceased's skin pallor or the nature of his breathing. He looked intoxicated, was slurring his speech, smelled of alcohol and required to be supported. The sergeant could smell alcohol from him across the desk. From what he saw and had been told, the sergeant assumed Mr Jamieson was drunk. He did not see anything unusual on his face. He took information from the arresting officers given the state Mr Jamieson was in. He did not allow him to be seated – a chair could not be allowed in the charge bar area for health and safety reasons.

[48] The sergeant said that he had not asked Mr Jamieson if he had ingested alcohol or drugs. He said he would normally ask that but took the information from the arresting officers on this occasion. He remembered someone mentioning the smell of cannabis but he could not detect that smell from the clothing. He had not asked Mr Jamieson if he had been smoking cannabis. He remembered someone remarking later about there being no smell of alcohol. The sergeant said that he could smell it. He did not hear Mr Jamieson mention that he was on a methadone programme. If he had, then, in terms of his condition he said that he "might have taken a different course of action" and made enquiry about his history of drug use. The sergeant thought that he had asked Mr Jamieson if he had any injury. He had not asked him if he was on any prescribed medication. He did not think that he required any medical treatment.

[49] After Mr Jamieson had been placed in a cell, the sergeant was told by PCSO Scoular that a background check on the police computer had revealed a 'drugs' marker against his name. The sergeant said that he then checked the convictions record which revealed that Mr Jamieson had not been convicted of a drugs offence for a number of years. He therefore viewed the 'drugs' marker as historical. He accepted that he should have entered this information in the duty officer's notes. He said that during a conversation in the cell passageway after Mr Jamieson had been put in the cell, Constable Moran informed him that he had told him that he had taken a couple of valium earlier in the day.

[50] The sergeant decided to put Mr Jamieson on a category D observation regime with frequent visits. He would be visited twice in the first half hour. On the second visit PCSO Nisbet had come to the public area and asked PCSO Scoular to come to the cell to try to rouse him. They both went to the cell and shortly thereafter the cell alarm sounded. There is a touch pad at the cell. The sergeant went to the cell and saw Mr Jamieson slumped with his right side against the wall and his head on his chest. He had a mottled appearance. The sergeant and PCSO Scoular moved him into the 'recovery' position at which point liquid came out of his nose and mouth. The sergeant instructed PCSO Nisbet to telephone for an ambulance. The sergeant and PCSO Scoular commenced chest compressions. The sergeant obtained a mouth guard and began mouth to mouth resuscitation. Unfortunately the mouth guard became contaminated with vomit and the sergeant had to obtain another one. Attempts to resuscitate the deceased continued until the arrival of the ambulance but there was no response.

[51] The sergeant said that while he was completing the processing of Mr Jamieson he could not hear some of what was being said on the other side of the charge bar. He had not heard one of the officers say that they could not hold him much longer. He had not noticed the pallor of the deceased's skin. He did not think that the deceased's breathing was as pronounced as can be heard on the CCTV. The deceased was often incoherent. The sergeant did not hear him say that he was on methadone and no-one else had mentioned that to him.

CCTV Evidence

[52] As previously noted, the arrival of Mr Jamieson at the police office and the procedure at the charge bar are all captured on CCTV and the video material was viewed at the Inquiry. A transcript of the voices on the tape had been made by a CID officer. Some sections of speech were inaudible and much of Mr Jamieson's speech was incoherent.

[53] The visual material commences with Mr Jamieson arriving at the rear door of the police office. He is being held up by an officer on either side and is bent over. As he is walked along the corridor to the charge bar he is seen to be bent over from the waist and

as he arrives at the charge bar he leans and rests on it. A PCSO comes in briefly and Sergeant Comrie comes in and tells the officers he will "be right with you".
Mr Jamieson's speech is very slurred although he gives his name and an address in Old Edinburgh Road, Viewpark. From the outset it is apparent that Mr Jamieson requires not only to support himself on the charge bar but also to be held up by the two arresting officers. His breathing is heavy and laboured.
[54] While Sergeant Comrie is out of the room and only the arresting officers are present, one of the officers asks Mr Jamieson what has he taken that day. He replies "a few valium and a couple of pints" and that phrase is repeated by the officer. At no time during the charge bar procedure is this information passed on to Sergeant Comrie. A short time later one of the officers comments that Mr Jamieson's knees are bent. He is repeatedly being told to stand up but it is clear that he is hardly able to stand. Constable Moran suggests that they "back him and sit him on that seat" indicating a room adjoining the charge bar but Constable Lindsay declines because "we're going to have to lift him back up again". Mr Jamieson continues to slide down the counter with his face resting on the surface until he is pulled back up by the officers. A few minutes later his respiratory rate becomes faster and the sound of his breathing louder and even more laboured. His head is down on the charge bar. At one point one of the officers shouts for one of the PCSOs saying that they "can't hold this guy much longer". The PCSO arrives and says that he cannot do anything until the custody sergeant is there.
[55] Eventually Sergeant Comrie appears after the lapse of about 6 minutes and the procedure of processing Mr Jamieson begins. When asked he gives his first name, his date and place of birth. He gives the address in Old Edinburgh Road again although it is pointed out to him he has a piece of paper with the Alexander Avenue address on it. At this time Mr Jamieson is becoming increasingly incoherent in his replies and is slipping down and unable to stand despite being held up. One of the officers applies a 'goose-neck' hold but even with that Mr Jamieson continues to slide down. In response to a question from Sergeant Comrie as to whether he is working, Mr Jamieson is recorded on the transcript as replying "I'm on methadone". None of the witnesses present said that they heard this and it is very difficult with normal play-back equipment to make out what he is saying. The transcriber – whose evidence was agreed – obviously transcribed the

phrase as such. Thereafter Mr Jamieson continues to become more incoherent. Throughout this time Sergeant Comrie is, in the main, at the computer terminal inputting the details.

[56] Sergeant Comrie asks Mr Jamieson if he has any illness or injury he needs to know about. He replies that he takes "panic attacks and anxiety attacks" and then makes an unintelligible remark about his stomach. No questions are asked of him about this and the sergeant repeats that he suffers from 'anxiety attacks'. Just before he is searched, his head is again on the counter and his body continues to slip down the charge bar. His breathing is loud and very laboured. The two officers are having difficulty holding him up.

[57] Mr Jamieson appears to take exception to being searched and pulls away from the officers and the PCSO attempting the search. At the start his head is on the charge bar counter and he starts counting out loud – "ninety three ninety four ninety six…." There is no apparent reason for this. He moves away from the charge bar and is almost bent double with his head well down. During this process the officers and PCSO are constantly speaking to Mr Jamieson asking him to co-operate. At one point Constable Moran comments that "it smells like cannabis" and Constable Lindsay says "Cannabis and valium". He is asked again what he has been taking today and whether it is just drink he has taken but his reply is incoherent and unintelligible. The comment is made to the sergeant by a PCSO about "black stuff" and as Mr Jamieson is still not co-operating with the search he is taken to the cell area to be searched there.

[58] After the search has been completed and the officers and PCSOs return to the charge bar Constable Moran says "there's not a smell of drink coming off him". Sergeant Comrie is present when this is said but it is not followed up.

Evidence of Paramedic/Ambulance crew

[59] **Mr David Mortimer**, the paramedic manning the Scottish Ambulance Service rapid response vehicle that night, was contacted by his control centre at 1943 hours that night and instructed to attend the police office. He arrived there at 1946 hours at the same time as a double-crewed ambulance. They were directed to the cell area and found Mr Jamieson lying on a mattress in a cell with one of the 'turnkeys' performing CPR. Mr

Mortimer looked after his airway and the members of the ambulance crew did chest compressions and attempted to insert Venflon access to a vein. The latter was unsuccessful due the veins being collapsed, indicating that no blood had been travelling through his veins for a little while. They continued with CPR but later moved him to the ambulance and at 2022 hours took him to Monklands District General Hospital. CPR was continued in the ambulance but there was no response and no vital signs of life. They arrived at the hospital at 2025 hours and passed him over to the medical staff there. Mr Mortimer's evidence was admitted by way of affidavit.

Police Casualty Surgeon

[60] Evidence was admitted by Joint Minute of Admissions from **Dr P G Sheridan**, the police casualty surgeon allocated to N Division and covering *inter alia* Coatbridge Police Office on the night of Mr Jamieson's death. In general, if Dr Sheridan receives a call from any of the police offices within the Division, he is required to attend as soon as convenient. If he received a call from Coatbridge Police Office it would on average take him 30 to 45 minutes to travel there from his home and a similar time if he was attending a call at any of the other stations within the Division.

[61] In general, if he receives a call from a police office he will speak to the officer or turnkey and, if he considers the situation to be an emergency, will request the officer not to await his arrival but to call an ambulance or immediately transfer the prisoner to hospital. Had he received a call to the effect that a 'drunk and incapable' prisoner had made reference to having consumed a couple of pints, a couple or a few valium and perhaps cannabis, he would not readily have considered that to be an emergency and he would attend as normal.

Pathology Findings

[62] The death was reported to the procurator fiscal at Airdrie and on her instructions a post-mortem examination of Mr Jamieson was carried out at the City Mortuary in Glasgow on 29 May by **Dr John Clark** and Dr Marjorie Black, both of the Department

of Forensic Medicine of Glasgow University. Dr Clark gave evidence to the Inquiry and spoke to his Report and the hospital records. The latter indicated that the deceased was asystolic on admission at 2030 and that the time of death was recorded as 2040 hours.

[63] At post-mortem examination he was found to be 5 feet 11 inches in height and weigh approximately 15 stones. He had a number of bruises and scratches on his arms, fingers and right knee but Dr Clark attached no significance to these. The post-mortem examination did not immediately reveal the cause of death. Microscopical examination of tissue samples revealed no natural disease which would account for death. Samples of blood and urine were taken for toxicological analysis.

[64] Analysis of these samples revealed high levels of methadone and olanzipine with therapeutic levels of fluoxetine and diazepam and a very low level of alcohol. The high levels of methadone and olanzipine would affect the brain, blood pressure and heartbeat. He would have become increasingly drowsy leading to unconsciousness and cessation of his breathing. The other drugs found might have made a slight contribution to death. The grazes had been caused by him falling and Dr Clark said that nothing had been found to suggest that he had been assaulted or harmed. The lower level of alcohol in the urine would tend to suggest that he had taken alcohol recently.

[65] The level of methadone found was about twice what would have been expected given his daily dosage of 80 mls. Methadone takes three to four hours to get to peak level. He would have been drowsy, staggering and unco-ordinated and would have appeared to be intoxicated. He would have slipped into unconsciousness and stopped breathing. The level was a potentially fatal level.

The olanzipine was at a very high level which, independently of the methadone, could have been fatal. It might have had an effect on his heart and might have been the reason why his condition deteriorated so quickly. Olanzipine has a calming effect. It can affect the heart, can cause convulsions, can cause a drop in blood pressure and can slow down the heart and stop it. It was rarely seen to feature in fatal cases and there was little reference in medical literature to it featuring in fatal cases.

[66] Dr Clark thought that admission to hospital could have benefitted Mr Jamieson. Oxygen could have been given together with drugs that can reverse his situation and attempts could have been made to restart his heart. His chances of survival would have

been increased but not guaranteed if he had been taken to hospital at the outset. At hospital the drug Naxolone, which tends to act quite quickly, can be used to reverse the effects of opiate drugs. However, Dr Clark did not think that there was a specific drug which could be given to reverse the effects of olanzipine. Dr Clark said that he could not really answer the question of whether earlier admission to hospital would have made any difference to the outcome. He took a positive approach to the question and said that early admission would not make him any worse. Accident and Emergency staff would check for dilated pupils and be alive to the possibility of drugs having been ingested even if the police taking a person there thought he was just drunk. While Dr Clark was not suggesting that the outcome would have been different, he was of the opinion that given the potentially fatal levels of methadone and olanzipine it would have been better for the deceased to have been in a clinical situation.

[67] The level of diazepam found was consistent with him having taken a couple of valium tablets. Dr Clark said that the presence of diazepam was very common in the deaths that his department saw. The analysis was negative for cannabinoids – the products of smoking cannabis.

[68] **Dr Hazel Torrance**, a forensic toxicologist at Glasgow University, gave evidence on her report following analysis of specimens taken from Mr Jamieson.

She considered the fluoxetine level found to be consistent with chronic therapeutic use of the drug and the diazepam level to be a high therapeutic level. The higher figure for alcohol in the blood as opposed to the urine suggested that alcohol hade been consumed shortly before death but could also be due to post-mortem change in the blood between death and the taking of the samples.

[69] Dr Torrance described olanzipine as a relatively new drug and said that there was little medical literature concerning it in relation to fatal cases. She noted that the olanzipine tablet was the same size, shape and colour as a valium tablet.

[70] Both methadone and olanzipine were respiratory depressants and the levels seen would have resulted in Mr Jamieson being drowsy, lethargic and falling asleep. This could be confused with the effects of excess alcohol.

The Clinician's View

[71] On behalf of Sergeant Comrie, Mr Gillies led evidence from **Mr Ian Anderson**, a very experienced Consultant, in the Accident and Emergency Department of the Victoria Infirmary. Mr Anderson had reviewed the medical records for Mr Jamieson from his GP and from the hospital together with the post mortem and toxicology reports.
Mr Anderson agreed with Dr Clark that the level of methadone found was high and could be fatal and that the level of olanzipine was very high and potentially fatal. The levels of diazepam and fluoxetine were therapeutic and these drugs did not, in his opinion, feature in the death.
[72] Mr Anderson agreed that the drug Narcan, with the trade name Naloxone, could be used to counter the effects of methadone overdose. However its use had changed and Accident & Emergency medical staff were much more circumspect about its use. In his view the use of the drug can cause more problems than it can counter.
Mr Anderson considered it to be more likely that the massive overdose of olanzipine was responsible for the man's death. He described it as one of the newer drugs used in the treatment of severe mental psychotic illness such as schizophrenia. In overdose it could have 'nasty side-effects' which could mimic the effects of alcohol intoxication. It affects the heart, interferes with the electrical conductivity of the heart and can make the heart stop. Its affects are impossible to reverse.
[73] Olanzipine was rarely prescribed by a general practitioner and would be prescribed by a consultant psychiatrist. Patients taking therapeutic levels of olanzipine can lead normal lives. Mr Anderson said that, as far as he knew, he had not dealt with a case of overdose of this drug.
[74] If someone with Mr Jamieson's symptoms was taken into a hospital Accident & Emergency department, his conscious level would be assessed on the Glasgow coma scale. A blood sample would be analysed to look at the biochemistry and at that stage a check can only be made for paracetamol and aspirin. A full laboratory analysis is not available in an acute situation. His vital signs would have been supported and they could have taken over his breathing for him. However, when his heart stopped the chances of starting it were 'zero'.

If Mr Jamieson had been transferred to hospital he would have been examined and treated as above but there would be no drug screening in such an acute situation. There was no test for olanzipine. While he would have had a better chance in a clinical environment, there would have been 'nil chance' of therapeutic intervention. The outcome would have been no different and Mr Jamieson's end was, in Mr Anderson's opinion, sadly inevitable. His opinion was that he had taken a massive number of tablets thinking that they were valium.

[75] Mr Anderson contrasted Mr Jamieson's situation with that of a patient in ventricular fibrillation. A defibrillator could restart the heart in that situation. Olanzipine puts the heart into asystole with no electrical activity – in other words a 'flat line' – and the application of a defibrillator will not start it. Mr Jamieson's heart had been in asystole when he was taken into hospital – there was no electrical activity. Mr Anderson said that the potential survivability of an 'out-of-hospital' cardiac arrest when the heart was in asystole was less than 1%.

In his view once the drug had been ingested at that level of overdose, death was inevitable.

Drugs found in the house

[76] Evidence was led from **Sergeant William Hodgson** of the search by police officers of Mr Jamieson's house after his death. The house was very untidy and a large quantity of medication and empty medication containers of various sorts was found littered throughout the house on floors, ledges and surfaces. Various items were found consistent with someone using drugs – eg capped needles, packaging for syringes, used needle boxes, swabs, tin foil and a pipe. There were many old packages and boxes for medication – some containing pills etc and some empty – and many empty methadone bottles. From the dispensing dates on the labels, the packs etc had been dispensed over a period back to 2007. The boxes had contained Amitriptyline. Fluoxetine, Codydramol and Cocodamol.

[77] In particular, the police found empty medication boxes which had contained Zyprexa – the proprietary name of Olanzipine – on the floors of two bedrooms and the

window sill of the lounge. The pharmacist's label on two of the boxes indicated that the drug had been prescribed to Mr Stewart Smith. No boxes of Olanzipine in the name of Mr Jamieson were found. A small number of old cans of beer was found.

[78] The total amount of Zyprexa (Olanzipine) and relative packaging found by the police was 4 blister packs of Zyprexa, two of which were partly used; 1 carton labelled 28 x 20 mg Zyprexa with 1 blister pack containing 4 tablets inside and dispensed to S Smith in March 2008; 1 empty carton labelled 28 x 20 mg Zyprexa dispensed to S Smith in January 2008; 1 empty box labelled Olanzipine 5 mg and 2 packs of Zyprexa.

Police Training

[79] Evidence in relation to training of police officers and civilian staff involved in custody duties was given by **Sergeant Malcolm Cowie**, who until July of last year had been a training sergeant at the Strathclyde Police training facility at Jackton. He had been responsible for the delivery of training to custody sergeants and police custody and security officers. According to police training records which were produced at the Inquiry Sergeant Comrie had attended the then Custody Officer Training at Jackton between 13 and 15 August 2007. PCSO John Scoular had attended the Police Custody and Security Officer Training at Jackton between 25 and 28 February 2008 and PCSO Steven Nisbet had attended that course between 3 and 6 December 2007.

[80] The custody sergeant has the supervisory role in relation to prisoners. Force Standard Operating Procedures (SOP) set out that the Custody Officer is responsible for the care and welfare of the prisoner from the point that the prisoner arrives at the police office (SOP para 6.1(c)) and that he must be physically present at the processing of all prisoners (SOP para6.2(a)). While the PCSOs have no decision-making role and perform a more practical role, the training for both types of officer now includes 'risk assessment' of prisoners. This element was added in to the custody officer training course in October 2007. The course had previously included a 'drunk prisoner' scenario.

[81] According to Sergeant Cowie all prisoners have to be 'risk assessed' as soon as they are brought in to the custody suite. They are assessed as to the risk they pose both to themselves and to the officers in the suite. Sergeant Cowie is now a custody sergeant at

Ayr Police Office and stated his own practice as being to ask all prisoners brought in if they have taken drink or drugs, if they are drug dependent, if they are suffering from any illness, if they have any mental health issues and if they have ever self-harmed. He will base his plan for the prisoner - and whether he considers there is a need for a doctor - on the answers received and his own observations. The plan for the prisoner will be put into the computer system for all staff to see. In this context Sergeant Cowie referred to Section 7 of the Strathclyde Police – Prisoners' Custody, Care and Welfare Standard Operating Procedures (Version 3 Feb 08) which dealt with Risk Assessment and Management:-

7.1 (a) The mental and physical health of a prisoner must be ascertained as soon as he/she arrives at the prisoner holding station. Relevant questions should be asked by the Custody Officer to ensure that an accurate risk assessment is made about the condition of the detainee.

(b) Risk assessment involves assessing the risk that each prisoner presents, not only to himself or herself, but alos to other detainees, members of staff and any other persons entering the custody suite. Risk assessment is a continuous process and should be done:

during the initial booking-in process; and

in the event of changing circumstances or events.

The section then goes on to detail a 'suggested format' of questions that Custody Officers should 'consider' asking prisoners, namely:

1. Do you have any physical or mental illnesses or injuries?
2. Have you taken drink/drugs?
3. Are you drug or alcohol dependent?
4. Are you taking or supposed to be taking any tablets or medication?
5. Do you have any dietary requirements?
6. Are there any other issues which I should be aware of that may effect your time in custody?

[82] Sergeant Cowie said that while the format was only 'suggested' in these Procedures, an amendment to be forthcoming shortly will include 14 mandatory questions to be asked of prisoners. They will include questions on diet, medical conditions, medication, drugs, alcohol/drink dependency, mental health, previous suicidal ideation or self harm etc. There will be staged implementation of this - Division by Division. The 14 questions will be detailed on a new screen as part of the computerised custody process. Each question will require to be answered before the person inputting the information can proceed to the next one.

[83] The six questions suggested in the current procedures are highlighted in the training programme and Sergeant Cowie said that he would train officers to ask these questions and note the answers. They had been included in the February 2008 edition of the Procedures and were therefore current some three months prior to Mr Jamieson's death. Sergeant Comrie and his staff should have been aware of them. The answers to the questions provided Sergeant Cowie with the information he required to determine the appropriate observation level for the prisoner. If he was unhappy about a prisoner's condition he would have the arresting officers take the prisoner to hospital. If a prisoner was on medication or said that he had taken a drug eg valium he would record that information in the custody officer's notes on the computer system. Similarly he would record that the Police National Computer showed a 'drugs marker' against the prisoner's name. However he accepted that such markers were recorded more for 'intelligence' purposes and that if it transpired that the prisoner had not had a drugs conviction for six or more years then the drugs marker would carry less weight.

[84] When the new edition of the Standard Operating Procedures was issued, a Memorandum dated 13 February 2008 from the Assistant Chief Constable, Criminal Justice & Territorial Policing to Divisional Commanders and Heads of Department, alerted all members of the Force to its release. A 'hyperlink' to it was also put on to the computer system. Sergeant Cowie described it as a 'living document' subject to regular change. It was up to all members of the Force to keep up to date with it. PCSOs are made aware of it during training and how to access it. New text is presented in 'red' on the computer to highlight it. There must be good reason for an officer to depart from the Standard Operating Procedures.

The Memorandum – a copy of which was produced on behalf of the Chief Constable – informed that a "comprehensive review" of the SOP had been undertaken and that, following an extensive consultation process, a number of significant amendments and additions had been made and which could be viewed on the Force Operational Guidance site. The amendments were said to incorporate recent reports and guidance issued at both national and Force levels in relation to the best practice associated with the care and welfare of prisoners. The Memorandum stressed that it was essential that staff had a clear

understanding of Force SOP and Divisional Commanders were asked to bring the content to the attention of all their staff.

[85] In section 14 of the Procedures under the heading Medical Provision a sub-section at 14.6 concerns Summoning the Police Casualty Surgeon/Hospitalisation.

14.6 provides (inter alia):-

"(a) If there is the slightest reason to believe that a prisoner:

is suffering from any illness or injury

has taken drugs

has consumed any other substance which might conceivably cause harm; or

whose condition is such to suggest that he/she requires medical aid

the Custody Officer is to summon the Police Casualty Surgeon or arrange for the removal of the prisoner to hospital, even though the prisoner has neither complained of his/her condition nor requested the services of a doctor.

(b) Where there is immediate concern for the health of a prisoner, notwithstanding that a Police Casualty Surgeon has been summoned, he/she is to be removed immediately to the nearest hospital by ambulance."

Sergeant Cowie interpreted this section as providing an 'either/or' choice between summoning a casualty surgeon or sending the prisoner to hospital.

[86] In relation to the training of PCSOs, Sergeant Cowie was referred to the training document or course book for the Police Custody and Security Officer Course (Sept 07). The course book, a copy of which those on the course would receive at the end, contained a number of Scenarios in relation to the care and welfare of prisoners. Scenario 5 concerning the 'Drunk Prisoner' posed the situation of a prisoner being 'dragged' to the uniform bar by arresting officers who say that he is drunk and incapable. He has no visible injuries and there are no indications of being able to stand unassisted or give distinct verbal responses to questions. The scenario posed a number of questions for discussion at training sessions as to the actions to be taken. Sergeant Cowie said that this covered both the 'drink' and 'drug' situations.

[87] Sergeant Cowie had viewed the CCTV videotape before giving evidence. He accepted that this was with the benefit of hindsight and would defer to those present, particularly, in relation to what they had heard. Based on the video material alone he said that it was difficult to say if any error had been made. Decisions were inevitably down to the judgment of the individual. However, he described the video material as 'having quite an impact'. In his view Mr Jamieson should have been taken to hospital very quickly.

Indeed, he considered that the arresting officers should have thought about taking him to hospital. He considered that Mr Jamieson had difficulty walking unaided and standing at the charge bar. He was not taking his weight on his legs and looked as if he would fall if the officers holding him let him go. According to Sergeant Cowie the advice from their chief casualty surgeon was that if a prisoner cannot walk in unaided and cannot give coherent answers to questions then he should not be in a police office. Mr Jamieson could not stand and was incoherent at times. His breathing was laboured. The suggestion by one of the officers that he be allowed to sit was a sensible one. His speech was slurred , he mentioned anxiety attacks and something about the lining of his stomach. In Sergeant Cowie's view that should have prompted the asking of questions. The reference by Mr Jamieson to having taken valium and a couple of pints should have been passed on to the custody sergeant as soon as reasonably practical. In his opinion the six suggested questions in the Standard Operating Procedures would have covered the issues here. He would have wanted to ask questions to ascertain why Mr Jamieson was acting in that way. He would have had Mr Jamieson removed to hospital.

[88] In the course of his evidence Sergeant Cowie confirmed that there was no Force-wide policy that all persons arrested for 'drunk and incapable' were taken to hospital. It was still a matter for the discretion of the arresting officers and – once at the police office – the custody sergeant. The matter was raised with him as evidence had been given by the arresting officers that following Mr Jamieson's death a policy had been introduced that all 'drunk and incapable' prisoners were taken straight to hospital.

Indeed, evidence was led in the Inquiry from **Chief Inspector John Fitzpatrick**, the Deputy Sub-Divisional Officer of 'N' Division that a verbal instruction by his predecessor at Coatbridge had been interpreted as meaning that all 'drunk and incapables' were to be taken to hospital for assessment. Clearly such a policy would have a serious impact on the deployment of police officers and on the workload of the A & E departments. If four or five persons were arrested for being 'drunk and incapable' a night then up to ten officers could be 'tied up' at hospital with them. An explanatory note bringing Coatbridge back into line with Force procedures was issued. All 'drunk and incapables' should be assessed on entering the police office. That should include observation of their demeanour, information from the arresting officers and the prisoner's

answers to questions. Thereafter, a 'care plan' could be prepared for the prisoner – which could include his removal to hospital.

[89] Sergeant Cowie was shown the Custody Officer Course Book which Sergeant Comrie had received during his training in 2007 (Production 2 for Sgt Comrie) and accepted that the only page in relation to the 'drunk prisoner' was one which included an Observation Check List. He accepted that the material was markedly different. He was also shown the version of the Prisoners – Custody, Care and Welfare Standard Operating Procedures which had been extant when Sergeant Comrie had received his custody officer training. At sub-section 15 : Care of Prisoners there is reference to the need for all prisoners detained in cells to be visited at least once an hour, roused and spoken to. The text at sub-heading 15.4(a) : Drunk Prisoners, requires that particular care is to be taken in relation to prisoners who are drunk or under the influence of drugs, with consideration being given to the gravity of the combination of a head injury and alcohol. A drunk prisoner is to be visited at regular intervals, <u>at least</u> once every half hour.

Under the sub-heading 15.5 Summoning Police Casualty Surgeon/Hospitalisation, para (a) provides that if there is the slightest reason to believe that a prisoner <u>*inter alia*</u> has taken drugs, the Duty Officer is to summon the police surgeon or arrange the removal of the prisoner to hospital.

Findings

[90] As already observed, this is a mandatory Inquiry in terms of section 1(1)(a)(ii) of the Fatal Accidents and Sudden deaths Inquiry (Scotland) Act 1976. At the time of his death Mr Jamieson was in 'legal custody' as defined in section 1(4) of the 1976 Act. The Inquiry is a form of inquisition and the statute provides the sheriff with inquisitorial powers. As Sheriff Kearney at Glasgow commented in 1985:- 'The essential purposes are the enlightenment of those legitimately interested in the death ie the relatives and dependents of the deceased, as to the cause of death….and the enlightenment of the public at large, including the relatives, as to whether reasonable steps could or should have been taken whereby the death might have been avoided so that lessons may be

learned or, at least, the attention of further inquirers directed into the ways whereby practices which may have contributed to the death can be improved.

[91] Such Inquiries inevitably examine the circumstances of the death with the considerable benefit of hindsight. In the course of his submissions, Mr Mohan for the family referred me to Lord Cullen's Report following his Review of the Fatal Accident Inquiry legislation in which at para 8.12 he comments that, having regard to the public interest in the learning of lessons from the circumstances of a fatality, there is considerable force in the view that sheriffs should take hindsight into account.

[92] In terms of section 6(1)(a) I have little difficulty in determining the place and time of death. I was invited by Mr Mohan for the family to hold that death had occurred in the police office. While the paramedic recorded that there were no signs of life from Mr Jamieson while they were carrying out CPR at the police office, I consider it appropriate to make the finding in terms of the time of death as formally pronounced by a doctor at Monklands Hospital, namely 2040 hours.

[93] I find the cause of death to be Methadone and Olanzipine intoxication as found following post-mortem examination. Although Mr Jamieson was on a daily repeat prescription of 80 mls of methadone dispensed under supervision, it is well documented that methadone can be obtained 'on the street' or shared between addicts. A large number of empty methadone bottles were found in Mr Jamieson's house. The probability is that the 'source' of the Olanzipine was his friend Mr Stewart Smith. Mr Smith said that he had not given him any and that he was not aware that any of his pills were missing. However a number of containers of the drug were found in Mr Jamieson's house, two of them bearing Mr Smith's name. However they came to be in Mr Jamieson's possession it is probable these were the drugs he took. The medical witnesses were not aware of any cases of Olanzipine being misused or abused and Mr Anderson said that the dosage taken by Mr Jamieson would likely result in 'nasty' side effects. The tablets are similar in shape, size and colour to valium and it is very possible that Mr Jamieson mistook them for that drug which was prescribed for him and which he bought 'on the street' from time to time. When he did buy valium tablets he was known to take up to twenty tablets at a time.

[94] I do not consider that the evidence at this Inquiry would found any finding under either section 6(1)(c) ie any reasonable precautions whereby the death might have been avoided or section 6(1)(d) ie any defects in any system of working which contributed to the death.

[95] It appears to me on the medical evidence led that, sadly, Mr Jamieson's fate was sealed after he ingested the drug olanzipine in the quantity in which he did. The level found at post-mortem was said to be very high and – in itself – fatal. Mr Jamieson's situation deteriorated over the relatively short period of time between his arrest and his collapse in the cell. He did not – or could not – tell the arresting officers, Sergeant Comrie or the PCSOs what he had taken and when – other than reference to 'one too many sherbets' and having taken valium and a couple of pints. Although the person transcribing the CCTV tape has attributed to Mr Jamieson the phrase "I'm on methadone" in response to a question about whether he was working, it is impossible on such equipment as was available to us to hear that remark and I accept the evidence of those present that they did not hear it. On the basis of what they saw of and heard from Mr Jamieson the arresting officers had no reason to believe that he should be taken straight to hospital. I consider their decision to take him to Coatbridge Police Office to be reasonable and appropriate. The outcome would have been no different if he had been taken to hospital. Mr Jamieson himself was by that time unconscious. While examination by clinicians in Accident & Emergency may have raised the possibility of ingestion of drugs as well as alcohol, the limited drug screen which might be available would not have detected the presence of the drug olanzipine. Mr Jamieson's treatment would have depended on the information provided to medical staff by the police and he would have presented as a 'drunk and incapable'. His deterioration was rapid. Had a casualty surgeon been summoned, it is probable that Mr Jamieson would have been dead before he arrived.

[96] However, under section 6(1)(e) of the 1976 Act I do consider that there are other facts relevant to the circumstances of the death which require comment. It falls to our emergency services, particularly the police and ambulance crews, to deal with persons found in public in the condition Mr Jamieson was in and incapable of looking after themselves. Mr Campbell, who went out of his way to report his concern about Mr Jamieson to the police, rather than just continue on his way, is to be applauded. The

difficulty in such cases – and it is an increasing one in present times – is that those encountering persons in such a condition very often have very little information to assist them in treating the person in the best and most appropriate way. Decisions must be taken on the basis of observation of the person and information about what they have taken. Given the increasing number of persons misusing drugs – and, indeed, prescription drugs – in our society and taking these with alcohol, it becomes increasingly difficult for the emergency services to have the full picture concerning a person such as Mr Jamieson. The police bear the brunt of dealing with persons found in this state in public and there is a wider question to be addressed as to whether the options of detention/arrest and custody or hospital are the only choices. It appears that after Mr Jamieson's death an instruction was given which was interpreted as meaning that all such persons should be taken to hospital. Such a policy would have huge resource implications both for the police and the NHS and, not surprisingly, the matter was clarified and Force policy confirmed as being per the Standard Operating Procedures. Other jurisdictions have in place or are experimenting with 'places of safety' with staff, including qualified nursing staff, who can keep close observation on such persons. How society deals with such persons raises much wider questions than are within the scope of this Inquiry, but the circumstances of Mr Jamieson's sad end may help inform discussion.

[97] Where a person in the same condition as Mr Jamieson is taken into custody, decisions about his detention or otherwise must be taken by the custody officer at the police office. That officer must exercise a judgment based both on what he sees and what he is told - and his own experience. Observation may not be enough. An assumption may be made that a person is intoxicated by alcohol due to behaviour and a smell of alcohol but something else may also have been ingested. Unless the person provides information about what they have taken – or it may be deduced from drugs on his person – then the full picture is not known. Sergeant Comrie recognised himself in his own evidence the further questions he should have asked and would – with hindsight – have asked which would have informed a risk assessment.

Although earlier medical intervention would not have brought about a different result, it does seem to me that there were a number of signs which, when taken collectively, should have led to the conclusion that there might be more to Mr Jamieson's condition

than the over-consumption of alcohol. It can be seen from the CCTV coverage that his condition is deteriorating while at the charge bar. He could not stand unaided and was almost bent over double from the waist. This worsened during the time he was at the charge bar. He became increasingly incoherent and unintelligible. His breathing was laboured and became more so and his respiration rate increased. He made mention of having taken valium – information that was not passed on to the custody officer. A member of the public had been concerned enough about his condition to alert the police. The police had seen him fall. There was 'black stuff' on his face. A smell of cannabis from him was detected by one of the officers in the charge bar – although as it transpired no evidence of cannabis use was found at post-mortem. There was comment after he had been put in the cell that there was no smell of alcohol from him. When first checked in the cell he was crawling around the floor on all fours. It is difficult not to conclude that all relevant information was not communicated between those dealing with Mr Jamieson and to the custody officer and that such information when considered collectively should have merited further enquiry. Although the result would have been no different in the end of the day, the circumstances pointed to a need for a medical opinion and, in the circumstances and his deteriorating condition, the summoning of the casualty surgeon or transfer to hospital – the latter being the safer option. The assumption was made by everyone that Mr Jamieson was drunk and that assumption having been made it was persisted in.

[98] Strathclyde Police have updated and amplified their training and guidance in relation to how such persons should be dealt with on arrival at the police office. An appropriate tool to assist them is available in the form of the computerised prisoner processing system. Later this year an additional screen is to be available which will contain some 14 questions related to the prisoner's condition and designed to provide more information to assist the custody officer. Had this not been in preparation, I should have been minded to recommend that consideration be given to such an addition. One benefit of the change is that it should eliminate oversight of a particular question given that the operator must obtain an answer to each question before he can proceed further with the process.

[99] So far as training programmes are concerned the Force should take account of the circumstances of this death in relation to the training not only of custody officers but also PCSOs. Consideration should also be given to the 'mentoring' of new or relief custody officers by more experienced colleagues or senior officers.

Evidence was given that there does not appear to be a procedure whereby custody officers who have experienced a death in custody are 'debriefed' or the circumstances of the death reviewed with them with a senior officer. It may be that the Force considers such a 'review' would be inappropriate prior to the holding of a Fatal Accident Inquiry. However, it appears to me that there may be considerable benefit in the circumstances being reviewed with the custody officer by another officer, either senior or from the training department at an appropriate time. Consideration should be given to a similar review taking place with the police officers and civilian staff involved in such an event. Sergeant Comrie said in evidence that he had become aware of the cause of Mr Jamieson's death from discussions with his solicitor in preparation for the Inquiry. However, it was noteworthy – and surprising - that neither of the arresting officers knew the exact cause of Mr Jamieson's death until they were told in the course of giving their evidence.

[100] It was clear from the CCTV evidence and the evidence of those present on the night that some six minutes elapsed between Mr Jamieson's arrival at the charge bar and the commencement of the processing procedure. Sergeant Comrie gave evidence that he was completing paperwork concerning too other prisoners. While such attention to detail is no doubt commendable, it ignores the fact that two officers who were clearly having difficulty supporting Mr Jamieson had to wait standing at the charge bar. That is, of course, a point of practice for the Force to consider but one might be excused for considering that the prisoner and two officers waiting at the charge bar had greater priority.