2014FAI22

SHERIFFDOM GLASGOW AND STRATHKELVIN AT GLASGOW

INQUIRY HELD UNDER FATAL ACCIDENTS AND SUDDEN DEATHS INQUIRY (SCOTLAND) ACT 1976 SECTION 1(1)(a) SECTION 1(1)(b)

DETERMINATION BY

SHERIFF JAMES KENNETH MITHCHELL, Esquire, Advocate following an Inquiry held at Glasgow on the Twenty Ninth day of July Two Thousand and Fourteen into the death of **GEORGE McKENZIE**, aged 48 years, who formerly resided at c/o 56 Redbrae Road, Kirkintilloch

GLASGOW, 04 August 2014. The Sheriff, having considered all the evidence adduced,

DETERMINES:

(1) In terms of section 6(1)(a) of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 that GEORGE McKENZIE, born 19 March 1965, who formerly resided care of 56 Redbrae Road, Kirkintilloch died at 16.52 hours on Friday, 25 October 2013 within the Intensive Treatment Unit at the Royal Infirmary, Glasgow whilst detained in legal custody.

(2) In terms of section 6(1)(b) of the Act that the cause of death was subarachnoid and intracerebral haemorrhage due to ruptured berry aneurysm.

SHERIFF

NOTE:

[1] This Fatal Accident Inquiry was held in terms of section 1(1)(a)(ii) of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 into the circumstances of the death of George McKenzie, who died at 16.52 hours on Friday 25 October 2013 within the Intensive Care Unit at the Royal Infirmary, Glasgow.

[2] The procurator fiscal was represented by Mr Quither, procurator fiscal depute. Ms McDonald, Solicitor, Edinburgh appeared for Scottish Ministers on behalf of the Scottish Prison Service. There was no other representation at this Inquiry although a number of Mr McKenzie's relatives were present in court.

[3] The parties were able to agree all the evidence which was encompassed in a joint minute of agreement. I am indebted to Mr Quither and Ms McDonald for the very considerable amount of work which they have undertaken to agree the undisputed evidence in this Inquiry. No evidence was led before me in this Inquiry.

[4] The procurator fiscal depute stated that the family, although present, were not represented. He had ascertained that they had no issues concerning the circumstances of Mr McKenzie's death. The procurator fiscal depute sought only formal findings in terms of section 6(1)(a) and (b) of the 1976 Act. He sought that there be no findings in terms of paragraphs (c), (d) or (e). The procurator fiscal depute's submissions were adopted in full by Ms McDonald.

[5] As appears from the joint minute, on 8 August 2013 Mr McKenzie was sentenced to serve a lengthy extended sentence. Thereafter, he was incarcerated in H M Prison, Low Moss, Bishopbriggs where he remained until late in the afternoon of 24 October 2013

when he was removed to the Royal Infirmary, Glasgow by ambulance. Mr McKenzie remained in legal custody.

[6] As appears from the joint minute, Mr McKenzie occupied a single cell, Clyde 2A3, on his own at HMP Low Moss, Bishopbriggs. On Saturday 19 October 2013 a fellow prisoner, David Ross became aware that Mr McKenzie had a headache. A couple of days later Mr McKenzie advised Mr Ross that he was on a "bed doon". This meant that he was out of sorts, excused from work duties, confined to bed and having his meals delivered to him.

[7] On 22 October 2013 Mr McKenzie attended at Low Moss Health Centre complaining of having been vomiting overnight and was seen by a nurse there. She found Mr McKenzie's temperature to be normal and excused him from work duties for a day. She did not prescribe any medication and matters were left upon the basis that if his condition did not improve he was to revert to medical staff. Mr McKenzie did not do so at any time prior to his death.

[8] On 24 October 2013 Mr Ross visited Mr McKenzie in the latter's cell. Mr McKenzie was responsive to Mr Ross but Mr Ross could not gain any impression as to his state of health at that time.

[9] About 16.15 hours on 24 October 2013 Prison Officer Natalie Cree checked Mr McKenzie during a routine check of prisoners. She found him to be drowsy and there was a smell of urine in his cell. When she asked after his welfare, Mr McKenzie responded affirmatively.

[10] When Mr Ross returned to Mr McKenzie's cell about 17.00 hours on 24 October 2013 he found Mr McKenzie again in his bed lying on his back with his head facing towards the cell door and his left leg hanging out of the bed. His top half and head were

uncovered but the rest of him was covered by bedcovers. Mr Ross gently kicked Mr McKenzie's foot and said his name but Mr McKenzie did not respond either by word or deed. Mr Ross gained an impression that Mr McKenzie's eyes were closed and noticed what appeared to be dry blood on his chin. Concerned by this, he called another prisoner for assistance. Both of them tried to obtain a response from Mr McKenzie without success. They alerted prison staff to this situation.

[11] Prison Officers Natalie Cree and David McAdam attended at Mr McKenzie's cell. Mr McAdam made a "code red" radio call. The officers observed that Mr McKenzie appeared to have a cut on the side of his chin, just about at his jawline, and noticed blood on his face and on the ground beside his bed. Mr McKenzie was groaning and his left arm was slapping against his left leg in what appeared to be an involuntary action. His eyes were open but he was not responsive and gave the impression of having some sort of fit. The officers attempted to move Mr McKenzie into the recovery position but were unable to do so since his body was quite rigid, his left hand and arm seemed to be clenched and he appeared to be in some sort of spasm. With assistance from another prisoner, Mr McKenzie was eventually placed into the recovery position. At this point, prison medical staff, namely, Alison McIntyre and Nurse Caroline Donald attended and took over Mr McKenzie's care. They found his blood pressure to be elevated and the pupils of his eyes pinpoint and not responsive to light. His pulse was in the normal range and he did not require assistance breathing. Although rigid, there was adequate oxygen circulating in his system. On further examination, his pulse rate and oxygen levels were found to have dropped and oxygen was administered. An ambulance was called.

[12] Paramedics Gordon Barclay and Andrew Pearson of the Scottish Ambulance Service attended Mr McKenzie's cell about 17.10 hours. They found him to be unconscious but breathing without assistance. They administered oxygen via a high flow mask and checked his vital signs. They were concerned that he might have overdosed on drugs and so administered Narcan to him but Mr McKenzie did not respond. The paramedics decided to take Mr McKenzie to the Royal Infirmary, Glasgow but as the ambulance was leaving the prison, Mr McKenzie took a fit and was given diazepam. The ambulance containing Mr McKenzie arrived at the Royal Infirmary, Glasgow at 17.54 hours on 24 October 2013.

[13] After arrival at the Royal Infirmary, Glasgow a CT scan was carried out on Mr McKenzie. This revealed a large intracerebral bleed, with visible blood in his ventricles, likely to be "unsurvivable". His Glasgow Coma Scale was 4/15 upon arrival at the Infirmary. Mr McKenzie's condition was assessed and discussed with neurosurgeons, who formed a view that the large intracerebral bleed was likely to be "unsurvivable". Thereafter, Mr McKenzie's condition deteriorated.

[14] On 25 October 2013, Dr Audrey Chalmers, a consultant in the intensive care unit at the Infirmary was informed that Mr McKenzie had been admitted overnight with a brain haemorrhage and that scans carried out indicated that this haemorrhage would probably not be survivable. Mr McKenzie was already connected to a ventilator and throughout the course of the day his condition further deteriorated.

[15] Just after 15.45 hours, after discussion with Mr McKenzie's family, ventilator support for Mr McKenzie was turned off. He died at 16.52 hours within the Intensive Care Unit at the Royal Infirmary, Glasgow.

[16] About 08.00 hours on 25 October 2013, Detective Sergeant Colin MacRitchie became aware that Mr McKenzie was seriously ill in the Royal Infirmary, Glasgow. He established that he had been found within cell Clyde 2A3 at H M Prison, Low Moss. He caused the cell to be secured and preserved for potential forensic enquiry. He later instructed witness statements and scene photography to be taken and blood deposits considered. He arranged to have the cell securely fastened so that it would be inaccessible to others and any evidence therein preserved.

[17] Once Mr MacRitchie was notified of Mr McKenzie's death, he discussed the circumstances with Dr Chalmers. He instructed certain enquiries be carried out to assist in the preparation of a report for the procurator fiscal.

[18] At about 14.00 hours on Tuesday, 5 November 2013, Forensic Biologist Pamela Strahorn conducted a forensic examination of Mr McKenzie's cell and seized a total of five blood lifts from various locations within the cell and noted the pattern of a further nine blood deposits. All 14 of these points were highlighted and individually photographed with a diagrammatic market for future reference. She found no sign of any disturbance or dispersal of blood which could be interpreted as being a result of an assault. There was some blood staining on the bed, pillow cover and on the floor of the cell. A significant blood stain on the cell floor in front of the desk area was surrounded by a small blood spray pattern towards the base of the desk area and to the side of the stain, the latter apparently being diluted blood spray indicative of blood emanating from a mouth or nose. There was some limited blood spray to the base of the legs of the adjacent plastic chair. It was determined that the most likely explanation for the blood deposits described was that Mr McKenzie had fallen on the floor, striking his face on the concrete surface. The apparent effusion of saliva blood would be consistent with the

blood on the pillow in that it was considered that Mr McKenzie may have been suffering from a nosebleed or bleeding from his mouth and, having decided to get up, thereafter collapsed on the floor. Ms Strahorn was satisfied that the blood spray pattern would not be consistent with any act of violence given the low height of distribution which would infer Mr McKenzie was face down to the floor when the blood was sprayed. These findings were consistent with the history of events as provided by Ross, Cree and McAdam. Following secondary photography of the cell to provide close up images of the spray pattern the cell was returned to the care of the prison. Markings placed during this exam were subsequently photographed.

[19] At about 15.30 hours on 25 October 2013, William Ward, Scene Examiner, took photographs at the cell of the deceased in Low Moss, showing:-

26 to 27, views looking into the cell
28 to 33, 40 to 43, 47 and 48, views of cell
34 to 36, views of apparent blood on floor
37 to 39, views of apparent blood on pillow
44 to 46, views from inside cell and showing toilet

Thereafter, at about 14.05 hours on 6 November 2013, Robert Smith, Scene Examiner, took photographs at said cell, showing:-

1, view of cell
2 to 25, views of cell showing forensic markers.

Said photographs form Crown Production 4 (pages 400A to 400B).

[20] Low Moss CCTV footage from outside the cell Clyde 2A3 on 24 October 2013 was subsequently reviewed and showed:-

12:33:31	Ross entering cell and exiting 12:33:44
13:11:34	McAdam entering cell exiting 13:11:39
14:12:54	McAdam placing canteen in cell and exiting 14:12:59
16:16:29	Cree opening cell and then closing same 16:16:33

16:48:52 Ross entering cell then exiting to raise alarm and summon assistance
16:49:05 Prison staff and medical staff entering cell

[21] On 1 November 2013 at the Southern General Hospital in Glasgow, a post-mortem examination was carried out on Mr McKenzie's body by Drs Kerryanne Shearer and Julie McAdam, Forensic Pathologists. The cause of death was found to be

1a: subarachnoid and intracerebral haemorrhage
due to
1b: ruptured berry aneurysm

Samples of blood were retained for analysis and screening, and indicated therapeutic levels of (anti-depressant) Mirtazapine and (resuscitation aid) Lignocaine. All other analyses for alcohol and drugs were negative. Furthermore, neuropathological examination of Mr McKenzie's brain found subarachnoid and intracerebral haemorrhage. The examination also found that Mr McKenzie had some blunt force injuries, in particular to the face, which could have been sustained if he collapsed upon the aneurysm initially rupturing. The toxicology report dated 2 December 2013 (pages 412/13), post-mortem report, dated 13 December 2013 (pages 404 to 409) and neuropathology report, dated 23 December 2013 (pages 410/11) form Crown Production 6.

[22] On the admitted evidence before me I am satisfied that Mr McKenzie's death was sudden and unexpected. His death was from natural causes from subarachnoid and intracerebral haemorrhage, this being the direct result of a ruptured berry aneurysm, which is a sac-like out pouching on the anterior communicating cerebral artery. As appears from the post-mortem report, such aneurysms result from a weakness in the blood vessel. This weakness can be congenital, inherited or associated with conditions, such as hypertension. The CT scan indicated that Mr McKenzie had suffered a

haemorrhage from which he could not have survived. Thereafter, his condition deteriorated. As narrated above, in these circumstances, after discussion with his family, Mr McKenzie's ventilator support was turned off and he thereafter died.

[23] In her closing submission, Miss McDonald made it clear that the circumstances of Mr McKenzie's death, although not suspicious, had been the subject of close scrutiny by the authorities. It was right that these enquires were carried out. Post-mortem examination found that the blunt force injury sustained by Mr McKenzie could have been sustained if he had collapsed when the aneurysm initially ruptured in his cell at Low Moss.

[24] On the evidence before me, I am satisfied that Mr McKenzie was not assaulted by anyone when he was in that cell. Once the aneurysm ruptured, the point of no return had been reached and Mr McKenzie could not have survived. Sadly, his death became inevitable. His death was not suspicious: there is no suggestion of criminal involvement by any third party. As there are no other facts and circumstances which are relevant to Mr McKenzie's death, only formal findings are appropriate.

[25] Both the procurator fiscal depute and Ms McDonald joined in expressing sympathy to Mr McKenzie's relatives who were present in court. I also expressed my condolences to them and repeat them now. When informed that some of those present in court had been involved in the discussion regarding withdrawal of Mr McKenzie's ventilator support, I stated that I hoped that on the basis of the admitted evidence at this Inquiry and, in particular, what had been found at post-mortem examination, they would find comfort that the decision to do so had been the correct one.