FAI 30

Sheriffdom of North Strathclyde at Paisley

Determination

dated

22nd May 2012

by

Sheriff Neil Douglas

Sheriff of North Strathclyde

In the Fatal Accident Inquiry
into
the death of

Catherine Wingate

The Sheriff determines:-

In terms of section 6(1)(a) of the Fatal Accidents and Sudden Deaths Inquiry(Scotland) Act 1976 that Catherine Wingate, born 18 November 1964, who resided 10B Gallowhill Court, Paisley and who was then in the legal custody of Strathclyde Police, Paisley Police Office Paisley, died at some time between 11.30 a.m. and 12.30 p.m. and was pronounced dead at the Royal Alexandra Hospital, Corsebar Road, Paisley on 9 October 2009 at 12:30 hours. Between 11.30 a.m. and 12.30 p.m. Ms Wingate was in cell F2 at Mill Street police station, Paisley, en route to the Royal Alexandra Hospital, Corsebar Road, Paisley and at that hospital.

In terms of section 6(1)(b) of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976, Ms Wingate's death was due to natural causes. She died as a result of congestive cardiac failure due to left ventricular hypertrophy. There were potential contributing causes of heroin intoxication and hyperthyroidism.

No determination is made in terms of section sections 6(1)(c)(d) and (e) of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976.

Note:

Summary of the findings of fact and of the reasons for the determination.

Ms Wingate died of natural causes late in the morning of 9th October 2009. She suffered a sudden heart failure due to a heart condition. At the time of her heart failure, Ms Wingate was a detainee in a police cell at Mill Street police station, Paisley, having been lawfully detained earlier that morning. She had not been charged with any offence and was waiting to be interviewed at the time of her collapse.

The pathologist found that Ms Wingate died of congestive cardiac failure due to left ventricular hypertrophy with potential contributing causes of heroin intoxication and hyperthyroidism. Heroin intoxication from ingestion of heroin more than three hours prior to her death was a potential contributing cause but was not the major cause of her death. Likewise, her hyperthyroid condition did not cause but may have potentially contributed to her death.

Ms Wingate was detained at a house search in Maxwellton Street Paisley. There was an allegation that Ms Wingate had been walked swiftly or dragged part of a short distance to a police car from the place of detention. I rejected the allegation of dragging and found the evidence inconclusive on the matter of being walked swiftly. The actions of the detaining police officers in carrying out a search, detaining her and conveying her to Mill Street police station Paisley were in furtherance of their duty, and did not cause or contribute to her death.

Prior to admitting Ms Wingate to custody, the custody officer at Mill Street police station asked Ms Wingate questions to establish that she was fit to be detained. He asked her if she had taken drugs or was ill or had any medical conditions that he should know about. She replied, "No" to these questions. He was advised by a detaining officer that Ms Wingate's partner had said that she had taken heroin earlier that day. He asked her again if she had taken drugs and she again denied taking drugs. He was satisfied from his experience of drug intoxication in detainees, from his observations of her and the answers to his questions that she had not taken drugs. He asked no further questions and was provided with no further information. He allowed her detention in a cell.

The female turnkey had met Ms Wingate several times in the past. She also considered that Ms Wingate was fit to be detained. Ms Wingate was placed on half hourly observations by the turnkey and they were carried out. On each visit she was recorded as awake and sober. Ms Wingate's detention went without incident until 11.30 a.m. when she was found to be unconscious. The monitoring of Ms Wingate was carried out in accordance with standard operating procedures and was appropriate.

Attempts to resuscitate Ms Wingate were carried out and the Scottish Ambulance Service were contacted. A fast response paramedic unit arrived within two minutes of being called. All attempts to resuscitate Ms Wingate were unsuccessful. She was transferred to the Royal Alexandra Hospital by ambulance. The actions of the Scottish Ambulance Service staff and the Royal Alexandra Hospital staff were timeous and appropriate.

In terms of a Strathclyde Police Standard Operating Procedure, a police casualty surgeon is to be summoned for a detainee or a detainee requires to be removed to hospital in the event that, " there is the slightest reason to believe that the detainee has taken drugs, or is suffering from any illness". Notwithstanding that the custody officer was of the view that Ms Wingate had not taken drugs, in the circumstances there was, "the slightest reason to believe that Ms Wingate had taken drugs" as set out in the protocol.

Separately, one of the detaining officers was aware of certain medical information about Ms Wingate, (swollen ankles, a recent spell in hospital with suspected swine flu and retching on going to the police car). She was also aware of Ms Wingate's lethargic condition earlier that morning which she believed to due to intoxication, probably drug induced, which may have affected her care and welfare in police custody.

In terms of a Strathclyde Police Standard Operating Procedure the detaining officer had to inform the custody officer of any issues she had knowledge of that may affect the care and welfare of the prisoner whilst in police custody. She omitted to provide that information to the custody officer, in part due to an oversight, and in part because she thought she had done so. Had she done so the custody officer would have asked Ms Wingate further questions to assess her medical condition. It is unlikely that the custody officer would have sent Ms Wingate to hospital or summoned the casualty surgeon on the basis that Ms Wingate was suffering from illness, as Ms Wingate had already denied any illness.

In these circumstances, it was a reasonable precaution that the custody officer should have taken to summon the police casualty surgeon to further assess Ms Wingate as regards the matter of taking drugs, but not in respect of illness.

Standing that Ms Wingate suffered a sudden and fatal heart failure, her collapse could not have been foreseen on the information that was or could have been available to the detaining police officers, the custody officer or the turnkey.

It would have been a matter of chance that any further medical assessment would have been taking place by a casualty surgeon or at hospital when her heart failure occurred.

If Ms Wingate had been at hospital when her collapse occurred, in general that would have provided the best chance of resuscitation for heart failure. However, standing the nature of Ms Wingate's collapse and condition, it was not a real or lively possibility in Ms Wingate's case that any medical intervention by resuscitation would have been successful, whether at the police station or at the hospital.

Accordingly, while there were reasonable precautions not taken by police officers, it has not been established that there were any reasonable precautions that might have prevented Ms Wingate's death. It was not otherwise established that there was any form of system failure by Strathclyde Police or any other facts relevant to Ms Wingate's death.

This Fatal Accident Inquiry is a mandatory inquiry in terms of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976, in terms of Section 1(1)(ii). The section reads, "Where (a) in the case of a death to which this paragraph applies… (ii) The person who has died was, at the time of his death in legal custody; … The Procurator Fiscal for the district with which the circumstances of the death appear to be most closely connect shall investigate those circumstances and apply to the Sheriff for the holding of an inquiry under this Act in those circumstances".

The aims and of objectives of the inquiry as set out in the notice announcing the inquiry were:-

To publicly establish the circumstances of the death;

To determine in particular whether the actions of police officers in detaining Ms Wingate at 9 Maxwellton Street, Paisley and conveying her from there to Mill Street Police Office Paisley contributed in any way to her death;

and to determine, in particular, whether the deceased should have been provided with medical attention at an earlier stage following her detention at 9 Maxwellton Street Paisley and her subsequent detention at Mill Street Police Office Paisley and whether any delay in the provision of medical treatment contributed to her death;

and from the inquiry itself, whether the provision of cover for observations during staff breaks had any relevance to the circumstances of Ms Wingate's death.

After sundry procedure I heard evidence and submissions in this inquiry from and including Monday, 9 January 2012 until Tuesday, 17 January 2012. The following were represented at the inquiry:

Ms M Price, Procurator Fiscal representing the Crown
Mr I Robertson, Solicitor representing James Wingate, father of Wingate
Mr T Williamson, Solicitor representing Margaret Taylor, daughter of Ms Wingate
Mr G Williams, Solicitor representing Police Constables Ellis Kane now Anderson, Laura Morrison and Gordon Boughen
Mr C Anderson, Solicitor representing Sergeant Ian Lang, the Custody Officer; and
Ms R Stannage, Solicitor, representing the Chief Constable, Strathclyde Police

The witnesses called to give evidence at the inquiry were:-
Called by the Crown:
Dr Abdul Latif,
Dr Julie McAdam,
Michael Duffin
Ellis Kane (now) Anderson, PC
Laura Morrison, PC

James Joseph Mooney Pouvrie
Ian Lang, PS
Heather McKenzie
Colin McDonald, PC
George McAllister, DS
Jill Malaney, PC
Gerard Docherty, PI
Ian Bryce, Paramedic
Philip Coyle, Ambulance technician
Dr David Stoddard,

Called for Margaret Taylor :-
Donna Miller
Called for James Wingate:- –
Professor Anthony Busittil

I found the following facts admitted or proved:-

1. Catherine Wingate, born 18 November 1964, who resided 10B Gallowhill Court, Paisley died at some time between 11.30 a.m. and 12.30 p.m. and was pronounced dead at the Royal Alexandra Hospital, Corsebar Road, Paisley on 9 October 2009 at 12:30 hours. Between 11.30 a.m. and 12.30 p.m. she was in cell F2 at Mill Street police station, Paisley, en route to the Royal Alexandra Hospital, Corsebar Road, Paisley and at that hospital.

2. Ms Wingate's death was due to natural causes. She died as a result of congestive cardiac failure due to left ventricular hypertrophy. There were potential contributing causes of heroin intoxication and hyperthyroidism.

3. In 2005 Ms Wingate was diagnosed by her general medical practitioner, Dr. Latif, with a heart condition, arrhythmia. She had been suffering from an overactive thyroid condition for some time before that. She was also prescribed medication for water retention. Ms Wingate saw Dr. Latif on a

regular basis thereafter. Notwithstanding her regular attendance with Dr. Latif, Ms Wingate had an aversion to hospitals.

4. Her medical conditions were capable of being controlled by prescribed medication if taken in accordance with medical direction. From the date of identification of her conditions and the prescription of medication therefor, Ms Wingate was not always compliant with the medical regime in that she did not take her medication on a regular basis.

5. In two months prior to her death she had not collected her repeat prescriptions. It is likely, therefore, that she was not taking any of the medication prescribed for her during that period. One the effects of her thyroid condition was that, untreated, it increases the heart rate. The medication for her heart condition was to reduce her heart rate. Failure to take her medication was detrimental to her health.

6. The failure to take medication for water retention allowed a build up of water in the body, including around the lungs. Failure to take that medication was detrimental to her health.

7. Ms Wingate also took non-prescription heroin from time to time, and alcohol, and smoked over fifty cigarettes per day. All these actions were detrimental to her health.

8. As a result of a large scale illegal drugs initiative, on 7 October 2009, officers of Strathclyde Police obtained a search warrant from the Sheriff of North Strathclyde, Paisley, to search premises at Flat 3/3, 9 Maxwellton Street, Paisley, said to be occupied by a Mr. Sloan and Ms Wingate. At 6:45 a.m. on Friday 9 October 2009 officers of Strathclyde Police executed the warrant.

9. They entered the premises by breaking open the front door by means of a Ramit device. Officers present included two female constables, constables Ellis Kane (now Anderson), and detective constable Laura Morrison, and constable Gordon Boughen. In the premises they found Ms Wingate, Mr

Sloan, a Ms Meechan and a Mr Duffin. The house was searched and what appeared to be controlled drugs were found. Mr Duffin claimed that the controlled drugs were his. All persons present were personally searched.

10. Flat 3/3, 9 Maxwellton Street, Paisley, had a living room and one bedroom and usual offices. Messrs Sloan, Duffin and Meechan were handcuffed but Ms Wingate was not.

11. Ms Wingate was found to be sitting in a chair in the living room in day clothes and appeared to have been sleeping at the time of police entry. Ms Wingate appeared initially to be lethargic, groggy, and monosyllabic. She sat with her head down. She appeared to be under the influence of something. No smell of alcohol was detected from Ms Wingate although there was a smell of alcohol in the room. Police officers were advised by those present that Ms Wingate had poor mobility in the morning. As a result, in order to accommodate Ms Wingate's immobility, the personal search of Ms Wingate was carried out in the living room by removing the other occupants out of the living room rather than taking Ms Wingate out of the room for a personal search. She required to be assisted from her chair to be searched, as she was unsteady on her feet; on standing, she was unsteady on her feet. Appropriate steps were taken by the searching police officers for her condition when carrying out the search. No drugs were found on the person of Ms Wingate. Mr Duffin advised the officers that Ms Wingate had taken drugs the previous night.

12. During the premises search which lasted from about 6.45 a.m. until after 8 a.m. various questions were asked of those present including Ms Wingate. Ms Wingate was asked whether she was well. She said that she was. She was asked if she would tell them if that position changed and initially she said that she would not, but subsequently indicated that she would do so. She continued to maintain that she was fine. As the time passed during the search, she spoke with greater fluency but always from a seated position with her head down and being bent over in her chair. She appeared to follow what was going on in the room and was lucid.

13. The search was carried out in an organised manner, at a measured pace, painstakingly, and methodically. The manner of search was not heavy handed. Appropriate attention was paid to Ms Wingate's condition at that time.

14. Prior to the search, Ms Wingate had been lawfully detained in respect of the Misuse of Drugs Act 1971, Section 4(3), and was searched at about 8:09 hours. She was thereafter lawfully detained under Section 14 the Criminal Procedure (Scotland) Act 1995. In furtherance of the detention of Ms Wingate, she was taken from 9 Maxwellton Avenue, Paisley, and conveyed in an unmarked Ford Focus motorcar (the police car) to Paisley Police Office. This took place after 8:00 a.m. Ms Wingate was not handcuffed by Police Officers for the purposes of removing her from the flat. Ms Wingate was compliant with police instructions throughout.

15. Ms Wingate went from the flat to the police car. She was able to descend the four slights of stairs to ground floor level at 9 Maxwellton Street, Paisley, by holding the hand of one Police Officer and steadying herself against the stair wall with the other. Once out in Maxwellton Street she was assisted by police constables Anderson and Morrison escorting her for about 200 feet round the corner of Maxwellton Street into Broomlands Road, Paisley, where the police car was located. In Broomlands Road, Ms Wingate's pace was slower than normal walking pace. Police Constable Boughen was also present.

16. As she approached the police car Ms Wingate indicated that she was feeling sick and at the police car she bent over, retched, and expelled a small amount of clear fluid. Thereafter the rear passenger door of the police car was opened for her and she sat in the back of the police car feet with the door open to allow her to take a breather. At that time, another police car was located behind that occupied by Ms Wingate. Mr Duffin and Mr Sloan were already detainees in that car. Constable Morrison asked Mr Duffin or Mr Sloan if Ms Wingate retching was likely to be genuine. That car moved off first. After Ms

Wingate had a breather, Ms Wingate was asked how she felt and she said that she would be "OK". She was asked if she wanted to see a doctor and she said, "No". The rear passenger door beside Ms Wingate was closed. Ms Wingate asked that the rear window be opened so that she could get some air. This was done. Ms Wingate was handed a polythene bag for use in the event that she was feeling sick. The police car then moved off and drove to Paisley Police Office at Mill Street a few minutes away.

17. The journey in the police car was uneventful; Ms Wingate was not sick. She engaged in general conversation with those in the car on the journey to Mill Street police station. During the car journey Ms Wingate was not handcuffed. Constable Anderson drove the police car. It was originally intended that constable Morrison would accompany Ms Wingate in the back of the car but, due to her aversion to retching, it was agreed that constable Boughen would sit in the back of the car with Ms Wingate and constable Morrison travelled in the front of the police car.

18. Ms Wingate left the flat a few minutes before eight thirty and arrived at Mill Street Police Station about five minutes later. As there were a number of detainees to be processed in the custody suite at Mill Street Police Station, Ms Wingate was seated for a time in the holding cell. Constable Morrison sat with Ms Wingate as constable Anderson went to process matters relating to the search. During that period, when constable Morrison conversed with Ms Wingate, Ms Wingate talked generally about her relationship with Mr Duffin**.** Ms Wingate asked for and was given a cup of water. While in the holding cell, Ms Wingate kissed Mr. Duffin and told him that she loved him. Mr Duffin stated later that day in interview that, "Katie seemed fine when I last saw her. When I was at Mill Street she gave me a kiss and told me that she loved me. She looked alright to me. Katie looked fine, no problems at all".

19. Ms Wingate's general appearance and condition improved steadily from 6:45 a.m. The cup of water given to her is the holding cell appeared to constable Morrison to assist her improving condition. At about 8.53 hours, Ms Wingate

was taken by constables Anderson and Boughen to the charge bar in the custody suite.

20. As there was a pre planned operation, management had provided suitable additional resources for the processing of prisoners that morning. Management had organised that sergeant Ian Lang, a fully trained and experienced custody officer should perform the custody officer duty at the charge bar and that he should have the assistance of a constable McDonald.

21. The charge bar is in a small room with a purpose built bar or counter unit in front of which the detainee is taken and behind which the police officer processing the detainee stands. The horizontal surface of the bar was at about the chest height of Ms Wingate. The counter is made of wood, but there are two panels of glass inset into the counter beneath which are located computer terminals with screens and keyboards.

22. The screen of the computer terminal displays prompts (generated by a computer programme) which the processing police officer uses to ask questions. The processing officer then types the information provided to him by the detainee or the detaining officers into the computer by means of the keyboard. The typed information then appears on the screen. Prompts include such matters as the name and address of the detainee. The method of processing the detainee is that the processing officer runs through a series of prompted questions. As an example, he is prompted to ask the detainee's name. Having obtained the information, the processing officer then types in the name. He then asks for the detainee's address, age, and so forth. Where appropriate the custody officer will ask additional questions.

23. Sergeant Lang processed Ms Wingate. He asked her and she provided her name and was given it by Ms Wingate as Catherine Wingate. She supplied her date of birth as 18 November 1964 and her place of birth as Paisley. She indicated that her age was forty four and that she was unemployed. She provided her address as 10B Gallowhill Court, Paisley.

24. The detaining officers provided information that Ms Wingate was a detainee in terms of Section 14 of the Criminal Procedure (Scotland) Act 1995 in respect of an offence under Section 4 (3) of the Misuse of Drugs Act 1971; that her place of detention was at 9 Maxwellton Street, Paisley. The detaining officers also provided their names. The computer recorded that the time was 8:56 hours on the 9 October 2009.

25. Sergeant Lang then asked Ms Wingate if she had been drinking or had taken drugs. She replied, "No". At that point constable Anderson told Sergeant Lang that Ms Wingate's partner had said to them that she had taken heroin earlier that day. In light of that information Sergeant Lang again asked Ms Wingate if she had taken any drugs. Again she replied "No". Sergeant Lang at that time had been employed full-time in the role of custody officer for three years prior to October 2009. He had considerable experience of observing persons under the influence of drugs in the custody suite. Standing before him, Ms Wingate looked pasty faced. His experience was that many detainees appeared before him pasty faced. He considered that she looked, "OK". Ms Wingate had placed one hand on the counter of the bar unit. Sergeant Lang formed a view that Ms Wingate had not taken drugs. Her appearance and manner of presentation were not what he would have expected to see and hear had she taken drugs; and she was able to speak clearly. There were no obvious signs to him that Ms Wingate was under the influence of drugs. In these circumstances, he took her at her word.

26. On the computer screen there is a prompt: "ORIGINAL CONDITION (SOBER/DRINK/DRUGS/SOLVENT):" Sergeant Lang entered against that; "DR", denoting drugs. Immediately beneath that, under, "Original remarks" he entered, "TAKLEN HERION ERLIER TODAY NOT CUFFED (sic)". Under "CURRENT CONDITION (SOBER.DRINK/DRUGS/SOLVENT)" there is recorded, "S". The computer programme is a live programme so that it can be updated in real time. As an example, it is recorded that Ms Wingate was given a cup of tea. This happened after she had been taken to a cell. It is unclear when the entry, "S" was made and by whom.

27. Sergeant Lang then asked Ms Wingate, "Have you any medical problems or injuries, or anything else I should know about?" It was a standard question that he asked every detainee. Ms Wingate said, "No". Sergeant Lang did not consider that there was anything about her demeanour which indicated that she was ill.

28. In accordance with standard procedure, he then proceeded to deal with the items that she had on her person (her property). Ms Wingate was also searched by Force Support Officer Heather McKenzie (the turnkey) who was present.

29. During the search Ms Wingate herself removed her necklaces and rings and handed them to Ms McKenzie. Ms Wingate was asked if she wanted a solicitor notified of her detention. She indicated that she wished Kirsty McGeehan of McGeehan and Company to be informed. She was asked if she wanted any other person informed and she replied, "No". Her details having been completed and processed, Sergeant Lang handed Ms Wingate over to Ms McKenzie to be placed in a cell, cell F2.

30. Sergeant Lang's assessment of Ms Wingate was that she was a "poor wee soul" because she looked older than her years. He considered that it would be of benefit to Ms Wingate that she have more support than standard from Ms McKenzie during the initial hours of Ms Wingate's detention. Standard observation of detainees is hourly. Accordingly, Sergeant Lang directed that Ms McKenzie carry out half hourly observations on her. Ms McKenzie and the two detaining officers took Ms Wingate to cell F2 in the custody suite. Cell F2 is a standard police cell for women.

31. Ms McKenzie had met Ms Wingate before in her role as a Reliance Security officer. They had met in the cell area of Paisley sheriff court on three or four occasions over the years, the last time being about eighteen months before. To Ms McKenzie Ms Wingate appeared in the same physical condition as she had been in 18 months before. Ms McKenzie noted during her search of Ms Wingate that she had swollen ankles. Her swollen ankles were not otherwise

obvious because she had been wearing trousers and it was only as a result of the search that she noticed that. Ms McKenzie did not mention the swollen ankles to Sergeant Lang. Ms Wingate had no difficulty in walking to her cell and being placed there notwithstanding her swollen ankles. During the walk to the cell Ms Wingate made a humorous remark to Ms McKenzie about constable Boughen, "Is that your heavy walking behind you?". Ms Wingate was placed in cell F2 at about 9:00 a.m. She asked for and was given water. She was also given a cup of tea, which she drank. Ms McKenzie as turnkey had the right to refuse to be responsible for a detainee in custody if she had concerns about the condition of the detainee. She had no such concerns about Ms Wingate's condition at the time of her detention in the custody suite.

32. Ms McKenzie checked Ms Wingate and recorded the 9:10 am observation of Ms Wingate in the computer entering the status code 1, which indicated she was sober and awake.

33. She thereafter checked on Ms Wingate that morning at 9:35, 9:50, 10:15, 10:35 and 10:50. She entered in the computer the visits and the times recorded were 9:38, 9:52, 10:22, 10:41 and 10:51 (all a.m.). On each visit she spoke to Ms Wingate. On each occasion Ms Wingate responded appropriately. Ms McKenzie recorded that on each occasion Ms Wingate was sober and awake.

34. During one of the later visits, Ms Wingate asked impatiently when she was going to be interviewed. In response, Ms McKenzie gave her a magazine to read. Prior to giving her the magazine Ms Wingate, on inspection, was sitting on the raised platform area with her back against the wall. On the occasion after she had been given the magazine she was observed sitting reading the magazine. On each occasion she appeared to be fine in the sense that her condition had not changed and was otherwise unremarkable; sober and awake.

35. Ms McKenzie varied slightly the times of her half hourly visits in order that these could not be anticipated with accuracy by the detainee. This was a general mode of operation by her in light of her experience as a turn key.

36. After the visit at 10:51a.m. Ms McKenzie asked Sergeant Lang if it would be in order for her to take her break. Sergeant Lang agreed.

37. Ms McKenzie is entitled to a break of one hour's duration, during the course of her shift. It was generally the case that Ms McKenzie took her break within the custody suite and was, therefore, available should the need arise.

38. Shortly before 11.30 a.m. Constable Boughen asked Ms McKenzie for the keys to the cells as he wished to take another detainee for questioning. On returning with the keys, Ms McKenzie decided that, as she had finished eating, she would resume her duties. Shortly after half past eleven she carried out a check of Ms Wingate in cell F2.

39. On looking through the inspection window in the cell she noticed that Ms Wingate was lying apparently sleeping with a blanket over her.

40. Ms McKenzie entered the cell but was unable to obtain a response from Ms Wingate. She appeared unconscious. Ms McKenzie was able to detect only a faint pulse. Ms McKenzie left the cell and went to the charge bar area to inform Sergeant Lang. Sergeant Lang and two police officers, along with Ms McKenzie, returned to cell F2. Ms McKenzie directed the officers to lift Ms Wingate carefully on to the floor as she considered that a hard surface would be better for resuscitation techniques. As Ms McKenzie had detected a faint pulse, she considered that it was inappropriate to commence resuscitation procedures immediately as it appeared that Ms Wingate's heart was functioning.

41. Prior to going with Ms McKenzie to cell F2, Sergeant Lang ordered the summoning of the emergency services and the 999 call was made.

42. Paramedic Ian Bryce, employed by the Scottish Ambulance Service, was on duty in a Rapid Response motor car on Renfrew Road, Paisley, close to Mill Street. About 11:44 a.m. he received a call to attend at Mill Street Police Station. He immediately went there and arrived in under two minutes. He was taken to cell F2. On arrival there he saw Ms Wingate on the floor of the cell with Ms McKenzie kneeling beside her and two police officers in attendance. Ms Wingate appeared to be unconscious. He checked her breathing and circulation. She was not breathing and her airway appeared to be full of fluid. Fluid can build up in the lungs prior to cardiac failure.

43. He advised those present to put Ms Wingate on her side in order to clear her airway of fluid and to continue resuscitation. On his return he used his suction equipment and inserted an air tube into Ms Wingate's throat to assist the airway by removal of fluid from it. Compressions and ventilation under the CPR (cardio pulmonary resuscitation) procedure continued, but throughout Ms Wingate was not breathing and had no pulse. The resuscitation procedures carried out were intended to ventilate Ms Wingate's lungs and to have her heart resume functioning so that blood would be pumped around her system into her organs and brain.

44. The various resuscitation procedures were not successful. A Scottish Ambulance Service ambulance populated by Ambulance Technicians Coyle and McCrossan received a call to attend at Mill Street Police Station at 11:53 a.m. and arrived there about 11:57 a.m. They were escorted immediately to cell F2 where they joined Ian Bryce. Ian Bryce was continuing to give advanced life support procedures. Ms Wingate showed no signs of life and there was no heart output. Mr Coyle took over administering CPR for a further fifteen minutes. Thereafter they obtained a trolley from their ambulance and conveyed Ms Wingate to the Royal Alexandra Hospital, the journey taking about five minutes.

45. Treatment was continued on the way to hospital. Ms Wingate was accompanied by police constable Malaney in the back of the ambulance. At the Royal Alexandra Hospital, the ambulance technicians handed over Ms

Wingate to medical staff, explaining to them what they had found and what treatment they had given.

46. The handover to the Royal Alexander Hospital staff was timed at 12:26 p.m. and Ms Wingate was seen by Dr Fitzpatrick, Specialist Registrar under the observation of consultant Doctor D Stoddard. The Accident and Emergency team were told that the patient appeared to have had a cardiac arrest in Paisley police office, that an endotrachial tube had been inserted in the airway and that standard advanced life support attempts had been carried out but that no heartbeat had been detected, nor breath noted. At the hospital Ms Wingate remained unconscious and unresponsive.

47. Having made a medical assessment of Ms Wingate, Dr Fitzpatrick recorded Ms Wingate's death and the time of death was noted as 12:30 p.m.

48. At the flat at Maxwellton Street, Paisley, between the commencement of the search and the removal of the occupants to Paisley Police Station, Mr Sloan, Mr Duffin and Ms Meechan conversed sporadically with the police officers carrying out the search in the nature of making conversation about what was going on. During such conversation in the living room, in response to a question by a female police officer to Ms Wingate asking if she were alright. Mr Duffin indicated that Ms Wingate had seen a doctor recently and had been in hospital two or three weeks before and that she had discharged herself. He also indicated that she had been in hospital with a suspected swine flu infection and suspected tuberculosis. Mr Duffin also indicated that Ms Wingate had been in "that" state, meaning the state in which she was during the drug search, for three weeks. He also indicated that Ms Wingate had difficulty with her mobility first thing in the morning.

49. Post mortem examination toxicology screening revealed that Ms Wingate had taken dihydrocodiene, diazepam, morphine and codeine in the months prior to her death. She had ingested heroin in the twenty months prior to her death, and methadone between February and December 2008. She had also ingested heroin not earlier than three hours prior to her death and there was a moderate

level of morphine from heroin present in her body. The quantities taken were not capable of being determined by analysis.

50. The mechanism of congestive cardiac failure in a person with congestive heart disease is that the heart continues to pump oxygenated blood through the body less and less efficiently with the result that the heart rate increases, breathing becomes shallow, and eventually and suddenly the heart fails. That can occur immediately or over a short period up to an hour before. If not immediately, the person can fell unwell for up to an hour prior to collapse.

51. Ms Wingate gave no appearance of being ill at the charge bar or on the observations carried out prior to her being found unconscious. Between 10.51 a.m. and 11.30 a.m. Ms Wingate lay down and covered herself in a blanket.

52. In cell F2 there is a call button which can be used by detainees in the event that they wish to summon assistance. Ms Wingate did not summon assistance in that way.

53. Ms Wingate's collapse occurred suddenly and without warning. There were no physical or other signs of that impending collapse evident in Ms Wingate's condition or behaviour to the detaining officers, to the custody officer or to the turnkey prior to its occurrence.

54. Strathclyde Police maintain Standard Operating Procedures ("SOP") for the operation of police duties. In October 2009, Version 6.0 July 09 operated.

55. SOP 6.1(e) states: "Arresting or Escorting Officers must inform the Custody Officer of any issues they have knowledge of and that may affect the care and welfare of the prisoner whilst in police custody."

56. SOP 6.2 states: Role of the Custody Officer, states; "(a) The Custody Officer… must be physically present at the processing of all prisoners. (b) The Strathclyde Police computerised prisoner processing system is the primary method of recording the details of all persons entering police

custody. Only operators who have received formal instruction in the use of the system are allowed to input and update custody records. The details of all persons entering police custody should be recorded on this system. (c) The Custody Officer must satisfy himself that proper grounds exist for the arrest or detention of an individual prior to accepting that person into police custody.

57. SOP 7 states: Risk Assessment and Management. SOP 7.1 states, "Risk Assessment (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 also to other detainees, members of staff and any other persons entering the custody suite. Risk assessment is a continuous process and should be done (1) during the initial booking in process; and in the event of changing circumstances or events… (c) Detailed below is a suggested format of questions that Custody Officers should consider asking prisoners: (1) Do you have any physical or mental illness 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 made affect your time in custody? (consideration should be given to any suicidal tendencies or issues of self harm).If the prisoner answers "Yes" to any of the above questions, then he/she should be asked further questions as appropriate."

58. SOP 7.2 states, "It is recognised that the vast majority of prisoner risk assessments will be advised from the information provided by the prisoner, in response to the questions detailed above, from PNC/SCRO checks and from information provided by arresting officers. Where there is a need for further information the following should be considered:(a)The PNC/SCRO provide accurate and up to date recording of warning signals and information markers

and should be considered the primary reference for accessing such information… (b)…

59. SOP 7.3 states, "It is the Custody Officer's responsibility to determine the response to any specific risk assessment. This should be recorded in the form of a care plan for each prisoner, which should be recorded on the Prisoner Processing System by way of a Custody Officer's note. The care plan must record any relevant factors in relation to the care and welfare of the prisoner and should take into account the following points. Risk assessment level, either high or low. Reason for risk assessment level… Observation level constant/15 minutes/30 minutes/ hourly. Visit response required in accordance with this SOP, on all occasions rouse and gain coherent verbal response on each visit. Injury/Illnesses. Provide explanation of any injuries noted. Was medical assistance sought/provided. Outcome of medical exam."

60. SOP 7.4 states, "The Custody Officer must ensure that all members of staff are fully conversant with the care plan and any risks associated with individual prisoners and manage them accordingly. It is therefore of the upmost importance that comprehensive contemporaneous notes are made regarding any relevant information learned about the prisoner and his/her time in custody."

61. SOP 7.5 states, "Assumptions should never be made regarding any prisoner, even being placed within a police cell can have a traumatic effect on a prisoner and staff must inform the Custody Officer immediately of any concerns they have for prisoners."

62. SOP 7.6 states, "Any concern staff have for individual prisoners should be recorded in the form of a Custody Officer's note on the custody record within the Prisoner Processing System which the Custody Officer and all other members of custody suite staff have access to."

63. SOP 14 relates to medical provision:-Medical Provision, SOP 14.6 states, "Summoning Police Casualty Surgeon/Hospitalisation (a) If there is the

slightest reason to believe that a prisoner: is suffering from any illness or injury (even when it is believed the prisoner may be feigning an illness or injury): Has taken drugs: Has consumed any other substance which might conceivably cause harm: Has indulged in solvent abuse…: Whose condition is such as 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 services of a doctor."

64. Apart from the SOPs mentioned hereafter, the SOPs were complied with that day.

65. The questions asked by Sergeant Lang were as set out above. They covered some but not all of the suggested questions set out in SOP 7.1.

66. While Ms Wingate presented in a poor physical condition, as she presented before Sergeant Lang she appeared to be alert, stable, coherent, and able to answer appropriately all questions put to her.

67. It is the educated guess of Sergeant Lang that in excess of seventy per cent of those presenting for detention have drug problems. In dealing with persons presented for detention, he errs on the side of caution as regards drug, health and welfare issues.

68. As regards Ms Wingate, he came to the conclusion on the information before him that Ms Wingate had not taken drugs, notwithstanding the information given by constable Anderson.

69. Following on her initial denial that she had taken drugs, on the information subsequently given to him, sergeant Lang was aware that Ms Wingate's partner had reported to the detaining officers that Ms Wingate had taken drugs earlier that day. Notwithstanding her denial he entered on the computer that she had taken heroin earlier that day. He therefore he had information that she had taken drugs. Her denial was inconsistent with that. Although he

believed that she had not taken drugs, in the circumstances, there was still the "slightest reason" to believe that she had taken drugs.

70. Sergeant Lang did not comply with the requirements of the Standard Operating Procedures for a custody officer at the bar in the custody suite shortly before 9:00 a.m. as regards the issue of Ms Wingate taking drugs. He should have summoned the police casualty surgeon or sent Ms Wingate to hospital in terms of the standard operating procedure. It would have been a reasonable precaution therefore to seek further medical assistance for Ms Wingate and he did not do so.

71. Had a police casualty surgeon been called, depending on the priority, he or she would have been likely to arrive at Mill Street within between forty five minutes and two to three hours. Had he or she been told by Ms Wingate that she had not taken drugs and had she not been in a state of collapse he or she would have left without any medical intervention.

72. On the information he had as regards Ms Wingate's medical condition sergeant Lang complied with the SOP as regards illness.

73. Constable Anderson was aware that Ms Wingate had swollen ankles for at least three weeks, that she had poor mobility in the morning, that she had recently been in hospital for suspected swine flu and had discharged herself, that she had retched and produced fluids at the police car. Such information may have affected the care and welfare of Ms Wingate whilst in police custody. In terms of SOP 6.1(e) she should have informed the custody officer of that information. Constable Anderson was not aware of the detail of the SOP as regards arresting officers.

74. Had she informed the sergeant of the information he would have asked Ms Wingate further questions about her health in order to better inform his assessment of her medical condition. In light of that it is probable that he would not have sent her to hospital on the basis that he had not the slightest reason to believe that she was ill.

75. Had Ms Wingate been sent to hospital the medical team would have made enquiries of her about her normal or base state of health. It is likely that she would have told them what she had told the sergeant, that she had no medical issues. On that basis, it is likely that she would have been returned to custody without further medical intervention, unless by chance her collapse had occurred while at hospital.

76. The steps taken by the staff of the custody suite on 9 October 2009 on discovering that Ms Wingate was unconscious at about 11:30 a.m. were speedy and appropriate.

77. The actions of the Scottish Ambulance Service staff when summoned to the custody suite at Mill Street, Paisley on 9 October 2009 were speedy and appropriate.

78. The attempts to resuscitate Ms Wingate in cell F2 of the custody suite of Paisley Mill Street by Miss McKenzie and the ambulance staff were immediate and appropriate.

79. Post mortem examination showed no injury of concern to the pathologist. Some marks that were recent were most likely to have occurred as a result of attempts at resuscitation. Bruising to Ms Wingate's left upper arm was most likely caused in the attempts at resuscitation but it could also have been as a result being dragged under the arm.

80. Had Ms Wingate suffered her heart failure when at Mill Street in the presence of the casualty surgeon it was not a real or lively possibility that the surgeon or any other medical intervention would have successfully resuscitated her.

81. Ms Wingate was going to suffer heart failure on 9th October 2009 because of her heart condition. Had she been at home at the time of the heart failure she would have died as a result of that heart failure. Once Ms Wingate suffered cardiac failure that day, there was no real or lively possibility that she would

have been capable of successful resuscitation. Had Ms Wingate been at hospital earlier, and had she disclosed that she was non compliant with a medication, and had she been put on her drug regime these drugs would have taken time to have an effect; they would not have immediately assisted her condition. Had Ms Wingate been present in hospital at the time of her heart failure, that would have given her her best chance of resuscitation. Nonetheless, it was still not a real or lively possibility that she would have been successfully resuscitated that day.

82. Ms Wingate's ingestion of heroin at least three hours prior to her death would have been an unhelpful factor in the attempts to resuscitate her as it has an effect both on the heart and the brain but the major factor in her death was heart disease (left ventricular hypertrophy) and heart failure.

83. It would have been a reasonable precaution to take for constable Anderson to have advised sergeant Lang of the medical information she had about Ms Wingate and her view that Ms Wingate was recovering from probable drug intoxication. She did not do so.

84. Neither of these reasonable precautions that should have been taken by sergeant Lang and constable Anderson, are reasonable precautions whereby Ms Wingate's death might have been avoided.

A Joint Minute of Agreement signed by all parties represented the inquiry agreed the following facts:

1. That Crown Production Number 1 is a book of photographs taken by Cheryl Nixon, Scene Examiner, on 9 October 2009 at Mill Street Police office, Paisley and comprises the following views:-

1	General view showing rear door from yard to police office.
2 – 6	Views of charge car area.
7	View from charge bar into cell passageway.
8 – 12	General views showing route to cells.

13	General view of cell passageway showing door to cell 2.
14 - 31	Views of the items within cell 2.
32 - 42	General views of vehicle and items within bearing registration SF55 CVM.

2. Crown Production Number 10 is a book of photographs taken by Scott Johnston, Scene Examiner on 10 October 2009 at Flat 3/3, 9 Maxwellton Street, Paisley and comprises the following views:-

1	View of outside front door.
2 – 4	Views of hallway.
5 – 8	Views of living room
9 – 10	Views of various items on table within living room.
11 -12	Views of kitchen area.
13 – 17	Views within bedroom.
18	View of bathroom.

3. Crown Label Production Number 2 consists of footage seized from the Premises of Londis, 19 Broomlands Street, Paisley on Monday 12 October 2009 by DC Jennifer Bell of the Digital Media Investigation Unit, Strathclyde Police and shows footage of the footpath and street outside Londis on Friday 9 October 2009. The footage originally seized ran from 0630 hours until 0830 hours on 9 October. Crown Label Production Number 2 consists of footage relevant to the Inquiry, which was recorded over that time period.

4. David Leitch Jamieson Sloan was found guilty on 14 January 2011 following trial, at Greenock Sheriff Court, of a charge of Contravention of Section 4(3)(b) of the Misuse of Drugs Act 1971 in relation to being concerned in the supply of Diamorphine between 29 September and 9 October 2009 at 9 Maxwellton Street, Paisley.

I heard submissions on behalf of each party represented. All but Mr. Williamson and Mr Robertson submitted that there was no basis for a finding in terms of section 6(1)(b-e).

Mr. Williamson and Mr Robertson submitted that there should be a finding in terms of 6(1)(c). Constable Anderson should have mentioned to sergeant Lang the issues of Ms Wingate having recently been in hospital and retching. There was evidence that Ms Wingate had taken drugs. In terms of the SOPs, had a casualty surgeon been called he or she would have had the opportunity to make a medical assessment of Ms Wingate.

Points for determination at the Inquiry

1. The determination publicly of the circumstances of the death of Ms Wingate.

2. Whether the actions of the police officers in detaining Ms Wingate at 9 Maxwellton Street, Paisley and conveying her from there to Mill Street police station contributed in any way to her death.

   The evidence falls into the following categories:-
   (a) the search at the address
   (b) the manner of conveying Ms Wingate to Mill Street
   (c) the processing of Ms Wingate at Mill Street.
   (d) her period of detention there

3. Whether the deceased should have been provided with medical attention at an earlier stage following her detention at 9 Maxwellton Street Paisley and her subsequent detention at Mill Street Police Office Paisley and whether any delay in the provision of medical treatment contributed to her death;

4. Whether the provision of cover for observations during staff breaks had any relevance to the circumstances of the death.

Point 1 for determination at the Inquiry

This is dealt with in detail below.

Point 2 for determination at the Inquiry

2. (a) There was a video recording of most of the search and it was spoken to by witnesses.

The search did not give rise to any manifest heightened activity by Ms Wingate or the others present. All present appeared to have been wakened from sleep and all appeared calm. The search was carried out in a low key professional manner over a lengthy period of time.

Mr. Duffin said in evidence that the search had been heavy handed. The evidence of the witnesses other than Mr. Duffin, was that it was carried out in an appropriate manner. The video evidence supports all witnesses other than Mr Duffin. The officers are seen to go about the business of the search for the most part in silence; silence is a notable aspect of what is taking place. The detainees were advised not to converse and they complied. I reject Mr Duffin's evidence on this point. I appreciate that not all of the search was recorded due to the battery of the recorder running out. There was no evidence to suggest that what happened after the battery ran out that the position changed in any way. By the time the battery ran out the search of premises and persons was mostly complete.

Ms Wingate was aware throughout of what was going on and was responding to questions asked of her. The assessment of the officers was that Ms Wingate was recovering from having consumed drink or drugs. There was no smell of alcohol from Ms Wingate. Drugs were present. Others in the house said that she had taken drugs the night before. Ms Wingate herself stated repeatedly that she was fine and appeared to becoming more alert as the search progressed. It was a reasonable conclusion for the officers to come to that Ms Wingate was coming out of some form of intoxication, probably drugs.

During the search, in sporadic conversation in the living room the others present explained to the officers present, that Ms Wingate had been in hospital and that she had "been like that" for three weeks, (referring to her lethargic condition). As a result of the conversations, constables Morrison and Anderson became aware that she had been in hospital recently and had discharged herself. I accept the evidence of the

constables as to the extent of their knowledge of Ms Wingate's condition, because it is unclear which officers were present when these sporadic conversations took place. From the video recording, it is clear that some of the conversations took place in another room when the female officers were in the living room searching Ms Wingate, and there were unlikely to have heard them.

I reject Mr Duffin's evidence that it was suggested at a point when the camera was not recording that Ms Wingate should go to hospital. There was not a hint of that in the recorded part of the search when it could easily have been said, and I accept the evidence that Ms Wingate's condition was improving all the time as the search progressed. Accordingly, it is likely that there were no circumstances emerging from which it was likely that Mr. Duffin would be likely to have made such a remark. It is also in conflict with information given in his statement immediately following Ms Wingate's death that Ms Wingate was fine.

Accordingly, as regards this chapter of evidence there is no evidence from which it could be taken that anything done by the officers contributed in any way to Ms Wingate's death.

(b) Constables Anderson and Morrison gave evidence that they assisted Ms Wingate down the stairs and that she was not handcuffed. I saw no reason to disbelieve the evidence of constable Morrison that Ms Wingate held her hand for balance going down the stairs. Only these constables spoke to going along Maxwellton Street, but Mr. Duffin and Mr Pouvrie spoke about rounding the corner and passage along Broomlands Road. There was CCTV footage of Broomlands Road from the Londis convenience store of Ms Wingate's arrival at the car in Broomlands Street.

The evidence of Officers Anderson and Morrison was that they accompanied Ms Wingate two hundred feet along Maxwellton Street and round the corner to Broomlands Street where the police car was located.

They acknowledged that Ms Wingate moved slowly.

Police constable Morrison said that Ms Wingate walked slowly but unaided at street level from Maxwellton Street to the car on Broomlands Road. Both officers indicated that they did not need to stop to allow Ms Wingate to gain her breath during this journey and that they had walked alongside her to the police car. She had started to retch, and at the police car, had spat some fluid into the gutter. The rear near side door of the police car had been opened for her and she sat in the police car with her feet still out of the car with the door open to compose herself. She had not retched again.

Mr Pouvrie had been waiting to enter the Londis convenience store when he became aware of, and interested in, the police presence as they returned to their police cars further up Broomlands Road. He saw Ms Wingate coming round the corner from Maxwellton Street and going to the police car. He said in evidence, first, that Ms Wingate was being held by two police officers, one male one female, and it looked as though she was being dragged because she could not walk that fast. He said that they were walking her a lot quicker than she could actually walk. He said that she was holding her stomach and leaning over and that she was in agony. He also said that he did not like the look of her because her head never came up and that she was holding her stomach. He said it was clear that she was being lifted. He also said that one of the officers said that Ms Wingate was a black, smelly bastard, which he considered to be offensive when there was no need for it.

Mr Duffin gave evidence that from the police car in which he was sitting he had seen Ms Wingate dragged round the corner to the car and that a police officer had to pick up one of her shoes which had come off. There was evidence from the post mortem examination that, while there was a more likely cause, the bruising under Ms Wingate's arm could have been caused by dragging.

The recording from Londis showed Ms Wingate being brought round to the car. The recording showed Ms Wingate coming round the corner with a police officer on either side of her. While the picture was distant, it did appear to show Ms Wingate's legs moving at some points, which supported the proposition that she was walking in some form and not being dragged. There was an indistinct recording of the group coming round the corner and dragging was a possibility. On the other hand, the progress

looked methodical and measured. It appeared as if Ms Wingate had her head up at least at one point and then her head went down at the point where she bent over to retch.

The picture was sufficiently clear to identify Officer Morrison, who was wearing red.

The recording showed Ms Wingate head up as she approached the car and then bending over in a manner that would suggest that she was retching and constable Morrison stepping back quickly in a reactive mode which was consistent with her evidence that she, in general, had difficulty with people being sick.

It also then showed Ms Wingate getting into the car and the police officer going into the boot of the car; which was consistent with obtaining the polythene bag and sheeting to take into the car in the event of Ms Wingate being sick again.

Beyond that, the recording appeared to be time lapsed and the speed indicators were such that the speed of other walkers shown in the recording appeared to be faster than the pace of Ms Wingate. That was suggestive of Ms Wingate walking at a speed less fast than normal walking pace. The recording appeared to show at times what could have been Ms Wingate was being held under the arm pits at times and at times not. It did not look that dragging was a possibility in Broomlands Road. Overall, it was inconclusive as to whether the officers were walking alongside her rather than supporting her under her arms. At times there was clear space between them and at another time what appeared to be a guiding hand as they approached the car. That said, notwithstanding that the progress of Ms Wingate was slower than walking pace, I was a little surprised to see her walking as fast as she was seen to walk in the recording, having regard to her state of immobility seen in search recording.

There was no obvious picture of someone picking up her shoe, and that was not put to the constables when they gave evidence, but Mr. Duffin could have seen more than the camera showed. It is an odd detail to relate if it is a fabrication. The only evidence for the shoe is Mr. Duffin and I am not prepared to place much weight on his evidence for the reasons set out elsewhere. Mr Pouvrie was inconsistent in his evidence about whether the action was dragging or assisted walking. According to the evidence of Mr

Pouvrie the police car in which Mr Duffin was removed from Broomlands Street had left several minutes before Ms Wingate came round the corner, although the recording showed that the police car did leave after Ms Wingate came around the corner.

Mr Pouvrie was seen in the video to be some distance away from the police car and there was vehicular traffic seen to be on the road. I find it difficult to accept, therefore, that he would have been able to hear over the traffic no other words than a remark said to have been made by a police officer. On the other hand, I was struck by his comment that there had been no need for the officer to make a disrespectful comment about Ms Wingate. Overall, I am not prepared on the evidence of Mr Pouvrie to make findings about what he said was said at Broomlands Road as I consider that I cannot attach sufficient weight to his evidence to do so.

The video evidence did appear to show Ms Wingate bending over in a manner that would suggest retching, and when she did so, what appeared to be Police Officer Morrison in a red jacket was seen to retreat rapidly which was consistent with her evidence of an aversion to such events and could be supportive of an inappropriate comment about not travelling in the back of the car with Ms Wingate.

Constable Morrison gave evidence that Ms Wingate held onto her hand when descending the stairs argues against her behaviour being as described by Mr Pouvrie such a short time later.

While the recording showed Ms Wingate bending over at one point, the manner in which Ms Wingate retched and how she was dealt with thereafter was more consistent with the verbal description given by the police officers than that of Mr Pouvrie. It is not obvious that Ms Wingate, although retching, was “in agony”.

Mr Duffin said in the evidence that a police officer approached him and asked him whether Ms Wingate was capable of feigning being sick. That proposition was not put to any of the police officers in the evidence. It is, of course, possible that a police officer would make inquiry of Ms Wingate’s partner about such matters.

The recording of the search showed appropriate and caring behaviour of police officers carrying out the search and interacting with those detained. The evidence of Mr Duffin and Mr Pouvrie would suggest a less caring approach to Ms Wingate.

I have come to the view that parts of the evidence of Mr. Pouvrie and Mr. Duffin leaves me uncertain about parts of the evidence of the two constables as to what happened in Broomlands Road. I reject the evidence of Mr Duffin and Mr Pouvrie about dragging but I cannot say whether Ms Wingate was assisted in part in her walking, was walking faster than she would otherwise have done, or whether any physical activity of Ms Wingate at that time or the speed of walking had the physical effect of raising her heart rate or causing her to wretch.

I find it unlikely that Ms Wingate, while retching, was in agony and that Mr Pouvrie's interpretation is exaggerated. I find it unlikely that a person in agony would have the presence of mind to ask for the window to be opened immediately following the events just described on the car journey to the police station. I accept the evidence of the police officers that Ms Wingate was asked after she had retched how she was and that she said that she was, OK. I also accept that she was asked if she wanted a doctor and that she had replied, "No" and that these exchanges occurred at Broomlands road after she had retched.

In connection with the evidence of the events at Broomlands Road, Dr Latif indicated that if Ms Wingate were subject to exertion, that any increased heart rate would have likely returned to normal within about six minutes. In the event that her exertion in getting to the car caused an increased heart rate or caused her to retch, the evidence shows that it passed, and that she steadily improved on the way to Mill Street. By the time she was in the custody suite at Mill Street Police Station there was no evidence of retching. There was no evidence that Ms Wingate was breathlessness at any point; there was evidence that she was fine.

The evidence was that Ms Wingate when retching produced a small quantity of clear liquid. The evidence was not that she had vomited stomach contents of substance, or repeatedly vomited. The overall impression was of the retching being a consequence

of exertion rather than of being actively ill in the sense of, for instance, reacting to a stomach bug.

As Ms Wingate continued to improve in the police car and at Mill Street, the evidence about Broomlands Road related to the circumstances whereby Ms Wingate was conveyed to Mill Street police station. It was not suggested that the manner of conveying Ms Wingate to the police car had any connection with her death and there was no evidence that it had. Accordingly, there was nothing in this chapter of evidence to suggest that anything done by the officers contributed in any way to her death

(c) processing at the custody suite
I deal with what happened at the charge bar and thereafter in greater detail below.

I am dealing at this part of the note with the issue of the actions of the detaining officers.
Constable Morrison gave evidence that in the holding area she sat and chatted about inconsequential matters with Ms Wingate, that she had a cup of water and said that she felt better. I accept that. That supports the evidence of the police officers that Ms Wingate's general condition had improved constantly as time passed.

There was nothing in the evidence of this short chapter of evidence to suggest that anything done by the officers contributed to Ms Wingate's death.

(d) As to her detention at Mill Street, the actions of the detaining officers at the charge bar are dealt with in more detail below. I set out below why I consider that the custody officer should have been informed of Ms Wingate's medical information and condition by constable Anderson. Aside from that issue, at the charge bar and in accompanying Ms Wingate to cell F2 the detaining officers and turnkey acted appropriately during the Ms Wingate's period of detention, and no action on their part contributed to the death of Ms Wingate.

<u>Point 3 for determination at the Inquiry</u>

Whether Ms Wingate should have been provided with medical attention at an earlier stage following her detention at 9 Maxwellton Street Paisley and her subsequent detention at Mill Street police station Paisley and whether any delay in the provision of medical treatment contributed to her death.

The difference in the condition of Ms Wingate and Ms Meechan shown in the recording of the search was striking. Ms Wingate looked in a much poorer condition initially than Ms Meechan, even if there is apparently an age difference between them. While Ms Wingate spoke more frequently as the search progressed, she still appeared significantly less fit than Ms Meechan by the end of the recording. By the end of the recording she still looked in a poor way.

On the other hand, there was evidence, which I accept, that she continued to improve thereafter. The responsibilities of the officers to Ms Wingate was a continuing one. It was therefore appropriate for the officers to ask her regularly from the start of the detention if she was alright or if she needed medical attention. They did so regularly in the house and in the police car after she had retched. Ms Wingate declined all such offers and said repeatedly that she was fine.

It was the view of the officers that Ms Wingate was recovering from intoxication. On the evidence it was a reasonable conclusion for the officers to come to, apart from being unfit, that her poor condition related to recovery from some form of intoxication, probably drugs. The officers were aware of Ms Wingate's swollen ankles and her poor mobility also but Ms Wingate declined medical attention and said nothing to indicate that she was suffering from any particular condition that required medical attention.

On the whole evidence there was nothing in the chapters of evidence from detention at the start of the search until handover at the police station that required that detaining officers take Ms Wingate to hospital, the departure from Broomlands Road in the police car ending in Ms Wingate once again declining medical attention and saying that she was fine; followed by an active conversation while waiting to be processed.

During this whole period, at least one officer was always with her. Had her condition deteriorated rather than improved, that would have been apparent to an officer immediately.

The next chapter of evidence related to processing of Ms Wingate at Mill Street police station. It was unfortunate that the recording equipment showing the charge bar in the custody suite was not functioning and had not been functioning for months. It would have been an independent check on how Ms Wingate was.

There were various witnesses to what happened at the charge bar of the custody suite when Ms Wingate was processed. These were constables Anderson and Boughen, the detaining officers, Police Sergeant Lang, who was the Custody Officer, Police Constable McDonald who was an officer seconded to assist Sergeant Lang in the processing of prisoners that day, and Miss McKenzie, the turnkey. There were differences in their evidence and I deal with these below.

That said, unless there was a complete fabrication of evidence, which appears both unfeasible and unlikely, the evidence of what happened in the custody suite has to be looked at in the context of what was happening there shortly before 9 o'clock on that Friday morning. The context was that there were a number of prisoners waiting to be presented for custody in the custody suite at Mill Street. It was known that there would be a greater number of detainees than usual because of a pre-planned operation and appropriate resources had been allocated beforehand for that purpose. That was the reason why Constable McDonald was there. Accordingly, as regards processing of a detainee, there was nothing out of the ordinary in a general sense; there were no increased pressures of time or processing. What those present would be witnessing would be a well understood and familiar process. It is not surprising, therefore, that what was remembered of the occasion, over two years after the event, would be subject to different recollections.

There was a difference of memory in the evidence of officers Anderson and support officer McKenzie from that of sergeant Lang and constable McDonald about whether Ms Wingate definitely replied, "No" to the various questions asked of her by sergeant Lang.

On that matter, the responsibility for asking the questions rested with Sergeant Lang and constable McDonald. I consider that it more likely that their recollection of the form of response was accurate. While there was also a responsibility on the detaining officers to pay attention to what was being said by Ms Wingate, the manner in which it was said would have been of less importance.

Having seen and heard sergeant Lang give evidence and having heard what Miss McKenzie has said about Sergeant Lang's normal way of proceeding, I do not believe that Sergeant Lang would have left the answers to the questions he was asking unanswered. I accept that he would insist on a clear response before proceeding to ask the next question.

Constable Anderson, in her evidence, said that it was she who would have mentioned that Mr Duffin had told her about Ms Wingate taking heroin.

It is clear from the fact that the detaining officers drew to the attention of the custody officer that Mr Duffin had said that Ms Wingate had taken heroin, that they were paying attention to the questions being asked by sergeant Lang.

Her evidence was also that the only issue as to Ms Wingate's health was that she was aware that Ms Wingate had swollen ankles and had had mobility problems. She thought that Mr. Duffin's reference at the search to her being in "that" state for three weeks related to her swollen ankles. I accept her explanation. Her evidence was that she "believed" that she had mentioned Ms Wingate's swollen ankles to the sergeant because Ms Wingate had rested her hand on the charge bar and she had said to him that Ms Wingate was slow moving about. She accepted that there is no reference to her mentioning this matter in her statement taken at the time.

She accepted that the fact of Ms Wingate had been retching at the car had slipped her mind and she that she had not mentioned it to Sergeant Lang.

Sergeant Lang and Constable McDonald each said that the officer had not mentioned Ms Wingate's swollen ankles, slow walking and mobility problem.

Standing the Sergeant Lang carefully noted the narrative in relation to drugs, I consider it more likely that the issue of Ms Wingate's swollen ankles and mobility difficulties were not mentioned. He could not recall being told about Ms Wingate's swollen ankles. Had he been informed of that, he said he would probably have asked her why her ankles were swollen and he had no recollection of asking such a question.

In the context of Ms Wingate's presentation at the bar, the fact that Ms Wingate took off her own jewellery and was in a position to walk normally to the cell and volunteer the quip to Miss McKenzie, "Is this your heavy?" referring to the police officer accompanying Miss McKenzie to cell F2, is indicative of Ms Wingate being fully alert and responsive to what was going on.

Mr Robertson and Mr Williamson raised the issue in detail with Sergeant Lang whether the Police Casualty Surgeon should have been summoned or whether Ms Wingate should have been sent to hospital.
Sergeant Lang's response was that, on the information he had, and looking at Ms Wingate in front of him, he did not believe Ms Wingate had in fact taken drugs and he did not believe that Ms Wingate was ill.

The issue arises whether information provided by a third party, in this case Mr Duffin, her partner, to the detaining officers, in face of Ms Wingate's appearance and double denial of taking heroin nonetheless required him to send for the Casualty Surgeon.

Sergeant Lang's evidence was that he considered that she had not taken heroin by reason of his experience, and that it was, in general, obvious when someone was under the influence of heroin. Nonetheless, he considered it important enough to record the information about heroin in the log.

His evidence was that he had no information to suggest that she was ill. Nonetheless he proceeded on the basis that she looked older than her years. Sergeant Lang considered Ms Wingate to be a "poor wee soul" to the extent of putting her on half hourly observations which was unusual.

I consider that the standard operating procedures are designed for the purpose of setting out and clarifying in detail what the practical requirements are for officers in respect of their duties as police officers.

The custody officer gets a snapshot of the person to be detained. He may not know the person in front of him necessarily. He may not know what the person in front of him has been doing prior to his arrival. He may know nothing of the lifestyle and health of the person in front of him. Against that background he has to make an assessment about the appropriateness of allowing him to be detained, and for the framing of a risk assessment relative to that person. He does that by observation of the person, by asking questions of the person and, where appropriate, of the detaining officers.

The detaining officers offered no other information about Ms Wingate to the custody officer. If they should have done so, clearly the time to do so was when the information was given to the custody officer of what had been said about Ms Wingate taking drugs. The sergeant chose to deal with the matter by asking Ms Wingate again if she had taken drugs. That was one of a number of possible responses he could have made in response to the information given.

Sergeant Lang, had a duty of care for Ms Wingate. Dr. Stoddard, the Consultant Accident and Emergency Surgeon at the Royal Alexandra Hospital, indicated that when carrying out a medical assessment of a patient attending Accident and Emergency, the doctor relies 90% on what he is told by the patient and 10% on his medical examination.

While Sergeant Lang's position is not entirely the same, Dr. Stoddard's comment highlights the importance of relying on information provided by the person being assessed.

The SOP at 7.2 also highlights the point. It states:- "It is recognised that the vast majority of prisoner risk assessments will be advised from the information provided by the prisoner in response to the questions detailed above, from PNC checks and from information provided by arresting officers. Where there is a need for further

information the following should be considered." There then follows a list of other sources. I am of the view that sergeant Lang's response was an appropriate one, but whether it was sufficient is another matter.

The test set out in the protocol for drugs is, "the slightest reason to believe." I accept that the custody officer, on the information he had, believed that Ms Wingate had not taken drugs. However, he had information that she had taken drugs and I do not consider that his repetition of the question to Ms Wingate was adequate to meet the test as set out in the protocol. The test has a low threshold.

Sergeant Lang was reluctant to address in cross examination the question of whether he had the "slightest reason" to believe that Ms Wingate had taken drugs. He simply repeated that he considered that she had not taken drugs. I formed the view that he had not applied the relevant SOP test at the time; he had applied a different test.

I consider that SOP test has to be applied objectively. Where a custody officer does not apply his employer's test, he cannot be said to have acted reasonably in the circumstances. A reasonable precaution would have been to apply the test he was supposed to apply. It was submitted that sergeant Lang had acted reasonably and that in some way the SOP was unreasonable. I cannot accept that proposition. Mr. Anderson for sergeant Lang submitted that what the sergeant's decision was reasonable having regard to his experience and his investigations sufficient. He also submitted that there was no comparative or expert evidence on the point. Leaving aside the fact that the it has been established that Ms Wingate had taken drugs and that his assessment was in error, where the sergeant did not follow the standard operating procedures the inquiry does not require to hear comparative or expert evidence to form a view that he failed to follow instructions and that following instructions would be a reasonable precaution.

As regards Ms Wingate's health, the same assessment issues apply. Ms Wingate presented to Sergeant Lang as a pasty faced woman who looked older than her years, and who was in poor physical condition. Clearly that would be a factor in assessing whether Ms Wingate was in the category of "slightest reason to believe she was ill". There is however, a difference between physical condition and a state of illness or

injury. The issue for Sergeant Lang was whether Ms Wingate could be safely detained or whether he had the slightest reason to believe that she was ill and not in a fit state to be detained and required to be seen by medical services, such the Police Casualty Surgeon. Professor Busuttil said that Ms Wingate was clearly unwell. Dr. McAdam in evidence said that it would be unfair to say that she should have been taken to hospital. She was not complaining and that (a) she did not look like and well woman and (b) she did not look like an acutely unwell woman. That was on the basis of the search recording. Looking at the recording of the search Ms Wingate has that appearance. There was however a great deal of evidence that she had substantially improved by the time she appeared at the charge bar to be detained. It would be inappropriate therefore to place reliance on an assessment based on the search recording.

As both Dr. Stoddard and professor Busittil pointed out, what a doctor is looking to find out is what the fitness base of the patient is and whether the patient is currently stable at that base or whether she is better or worse. As is now known, for several years Ms Wingate had chronic medical problems that are properly classified as illnesses. Sergeant Lang, who is not medically qualified, was charged with the responsibility of making the assessment. He had considerable experience of assessing the persons in front of him. On his assessment, he had in front of him someone who could answer his questions appropriately. He had no information from the detaining officers of any earlier matter, other than drugs, relevant to whether Ms Wingate was ill. At the time of seeing Ms Wingate she was alert, coherent, and denying the existence of any medical condition or any matter that he should know about. In these circumstances he was entitled to take the view that there was not the slightest reason to believe that she was ill and no casualty surgeon was required. This is in contrast to the clear cut issue of whether she had taken drugs or not.

There was evidence of Ms Wingate's condition at the charge bar from another quarter. Ms McKenzie, the turnkey, had known Ms Wingate in the past, having met her three or four times in the cells at Paisley Sheriff Court when working as a Reliance Officer. She had remembered her and the last time she had seen her was about eighteen months before. To Ms McKenzie Ms Wingate appeared to be in exactly the same physical state as she had remembered her eighteen months before. He evidence was

that, notwithstanding the decision of the custody officer, she had the right and, on occasions had exercised the right, to indicate to the custody officer that she was not prepared to accept responsibility for the prisoner. She had no concerns about Ms Wingate's state of health.

Ms Stannage made the point that it was far from clear that the detaining officers required to advise the custody officer of medical information. Constable Anderson was of the view that what she was seeing in Ms Wingate was recovery from drug intoxication. Of course constable Anderson was not clear what her responsibilities were in terms of the SOP. Further, if she did not consider that she should advise the sergeant, the question arises why did she claim to have told him about the ankles and mobility and accept that the retching had slipped her mind. In terms of the SOP it was for the detaining officers to draw to his attention any matters he should be aware of as regards the circumstances of the person detained. In this case, constable Boughen was not called and the only evidence for the detaining officers came from constable Anderson. I am of the view that in terms of the SOP applicable to arresting officers, as the detaining officer she should have told sergeant Lang, not just what Mr Duffin had said, but that it was her impression that Ms Wingate showed signs of recovery from intoxication from something probably drugs and that she had retched and that there was other medical information known to her. In the circumstances, that would have been a reasonable precaution to take.

Should sergeant Lang have asked constable Anderson about Ms Wingate's health. Mr. Williamson submitted that there should have been such a prompt on the system. There was no such prompt and I was not pointed to any provision in the very comprehensive SOPs suggesting that such a question was suggested to be asked or required to be asked. On the evidence I do not consider that the sergeant required to ask further questions about her health generally or from constable Anderson. I accept that if he had been told about her slow mobility, and her swollen ankles, he would have asked Ms Wingate further questions. He indicated that depending on Ms Wingate's answers, he would have considered sending her to hospital. I consider it unlikely that any likely response from Ms Wingate would have required him to change his view, as Ms Wingate's earlier general response had already indicated that

there were no such concerns. Further, Ms McKenzie became aware of Ms Wingate's swollen ankles and did not mention them to the sergeant.

While a prompt to ask the detaining officers about her health might be a useful addition, I do not see its absence as being a defect in the system, and I do not recall that being spoken of as one of the Lothian and Border's prompts. Constable Anderson had a separate duty to inform and the SOP therefore already covered that issue.

If the sergeant would have had information about poor mobility and swollen ankles he would have been entitled to assess that there was not the slightest reason to believe that she was ill for the purposes of fitness for detention. Had the evidence of her retching been added, it would have been told in the context of a belief that Ms Wingate was recovering from intoxication. I do not accept, unlike the matter of evidence of taking drugs, that it would have been more probable than not that sergeant Lang would have had the slightest reason to believe that Ms Wingate was ill when faced with the contrary evidence in front of him, and the assertions by Ms Wingate that she was not ill. Further, Ms McKenzie was a person with a knowledge of Ms Wingate's health in the past. She had a right to decline to take Ms Wingate if she had any concerns about her health. She did not mention the ankles and accepted her. In my view that points to the likelihood that there was not the slightest reason to believe Ms Wingate was ill and unfit to be detained without further assessment. While telling the sergeant of Ms Wingate's medical information and condition was a reasonable precaution, it cannot be said that it might have avoided Ms Wingate's death, because questioning would have resulted in him not having the slightest reason to believe she was ill. Further, if sent to hospital it was not a real or lively possibility that she would have survived her collapse, as set out in more detail below.

For completeness, it is my view that the remaining relevant SOPs were observed.

What the sergeant decided to do was keep an eye on Ms Wingate by increased observations, but did not consider that it was necessary having regard to the operating procedures for the Casualty Surgeon to be called.

Miss McKenzie continued to have no concerns about the health of Ms Wingate. Miss McKenzie's contemporaneous record of her checks on Ms Wingate indicate that throughout she was alert and sober. Miss McKenzie indicated that she had been asked for and taken a cup of tea which Ms Wingate had consumed. Later in the morning, Ms Wingate had shown impatience at the delay in being interviewed and had been given a magazine to read which Ms McKenzie had been seen reading. All of which were separate and independent and continuing indicators of normality. It is also an indication of the care and attention Ms McKenzie showed to Ms Wingate while she was in cell F2. The fact that some time after 10:50 a.m. Ms Wingate lay down and pulled a blanket over her could be an indication of her feeling unwell. Accordingly, there was no basis at all for Ms McKenzie seeking medical assistance for Ms Wingate or reporting anything about Ms Wingate to sergeant Lang until she found her collapsed at 11.30 a.m.

Mr Williamson submitted that Dr. McAdams' view was that Ms Wingate could have died suddenly, not that she did so. I disagree. The whole circumstances of Ms Wingate on that day having been put to Dr. McAdam she was of the view that it was more likely than not that Ms Wingate suffered a sudden heart failure. On the evidence, there was nothing that sergeant Lang would have been able to see on processing Ms Wingate at the charge bar at 9 a.m. which would have disclosed that. Also there was nothing that McKenzie could have seen which would have disclosed that Ms Wingate was likely to suffer a sudden and catastrophic heart failure.

On this chapter of evidence, I hold that in order to meet the protocol SOP 14 as regards drugs, sergeant Lang should have called the casualty surgeon or sent her to hospital.

On this chapter of evidence I hold that there was no requirement in terms of SOP for the sergeant to have called the casualty surgeon or sent her to hospital on the basis that he had the slightest reason to believe that she was ill.

As to the consequences of the failures to take the reasonable precautions, there was inevitably an element of speculation in the event that a casualty surgeon was called or a decision made to order Ms Wingate to be taken to hospital. Mr Williamson

submitted that the calling of a casualty surgeon would have opened possibilities of a fuller medical assessment. He then speculated what those opportunities might be.

There was some general evidence about the calling of a casualty surgeon. The evidence was that a casualty surgeon would normally arrive at the police station between forty five and two to three hours later depending on the priority. On the evidence which I accept, the basis on which the casualty surgeon would have been summoned was that Ms Wingate may have taken drugs but that the custody officer did not believe that she had. I heard no evidence about what the priority would have been, nor what the casualty surgeon was doing that day. It is therefore speculation to say when he/she would have arrived. He or she may have arrived before 10a.m. or after 12 noon or any time in between. It is further speculation to say what he/she would have found. It is speculation to say that Ms Wingate would have said anything different to a doctor than she said to sergeant Lang. Dr. Mc Adam indicated that if she had been called as a casualty surgeon and the patient had told her that she had not taken drugs and was otherwise alright that she would have left without any further medical intervention.

On the evidence, there was no basis, even on the SOPs, for sending Ms Wingate to hospital direct. Even if she had been sent, Dr. Stoddard said that Ms Wingate would have been assessed and if Ms Wingate appeared stable and indicated that she was in her usual condition she would likely have been discharged without further intervention. If the basis on which she would have been sent to hospital was drug taking, as she was alert and stable and denying having taken drugs it is likely she would have been discharged. As the evidence was that Ms Wingate disliked hospitals, it would seem unlikely that she would have wanted to remain there for any length of time.

On the evidence, if Ms Wingate had been sent to hospital at 9a.m. and as her collapse occurred some time after 10.50a.m. it would be speculative to consider that she would have been at the hospital at that time. She may have been sent there by the casualty surgeon but again that is speculation. If she had declined to be treated, she would be sent back.

It would be speculation to suggest therefore that she would have been at hospital when a sudden collapse occurred.

It is a further speculation as to whether Ms Wingate could have been resuscitated, on the basis of the medical evidence. The evidence of Dr.McAdam was the earlier the intervention after the heart failure, the greater the chance of success of revival. She said that, in general, a patient always had a better chance of resuscitation in hospital. Her evidence was that unless Ms Wingate had been in hospital at the time of her collapse there would have been no chance of survival. That meant that if she had collapsed while the casualty surgeon was present, she would not have survived.

Professor Busuttil was of the view that Mr. Bryce had available to him all the necessary resuscitation equipment and techniques that the hospital would have had, so whether in hospital or not made no difference. Dr. Stoddard, the accident and emergency consultant, explained the procedure for keeping a patient with heart failure alive in hospital but also gave evidence that having Ms Wingate at the hospital earlier would not have made any difference. In terms, he agreed that he was pessimistic about a successful outcome for revival of Ms Wingate, where Professor Busuttil was more optimistic. Standing the Dr. Stoddard was present and saw Ms Wingate where the professor did not, I consider that Dr. Stoddard's assessment carries greater weight on this point.

Professor Busittil's evidence was that in general patients with Ms Wingate's condition can live into old age. Ms Wingate was a heavy smoker, was not taking her medicine for her hyperthyroidism, her water retention and her heart condition. The post mortem screening also showed that in the twenty months before her death she had taken diazepam, methadone and heroin; all of which would have been injurious to her health. As I understood the medical evidence, failure to take the medication and other drug taking would have put a strain on her already diseased heart. Failure to take the prescribed medicine would have caused her heart to beat faster when the heart medicine was designed to slow the heart rate. Consumption of heroin would have affected her brain and heart. As I recall, Professor Busuttil did not say in terms in evidence that Ms Wingate was likely in these circumstances to have survived into old age.

I have to decide whether Ms Wingate's death might have been avoided. Reference was made to the authorities for the interpretation of section 6(1)(c) that "might" refers to "a real or lively possibility". In this case each speculative factor, is itself the subject of further speculation. Having regard to all the speculative factors that would require to be established, on the whole evidence, whether at Mill Street or in the hospital I hold there was no real or lively possibility that Ms Wingate's death might have been avoided had any of the reasonable precautions been taken.

Accordingly, in terms section 6(1)(c) there were no reasonable precautions whereby the death of Ms Wingate might have been avoided.

In terms of section 6(1)(d) I require to address the defects, if any, in any system of working, which contributed to the death of Ms Wingate. The SOP sets out suggested questions that the Custody Officer should use in carrying out his assessment. Sergeant Lang did not ask all of those suggested.

Professor Busuttil has a vast experience in the Lothian and Borders Police in the equivalent role of a Police Casualty Surgeon. Professor Busuttil gave a detailed and interesting explanation of a completely different regime operating currently in Lothian and Borders police force. In the custody suite there is the employment of designated nurses paid out of the police budget who work full time in Lothian and Borders Police; one being permanently resident at their largest custody suite in St. Leonard's in Edinburgh.

On this aspect of his evidence it became clear that in October 2009 and until recently no such nurse would have been available under the Lothian and Borders system on a Friday morning. Further, there was no evidence that a custody suite the size of Paisley would merit a permanent nurse and in that event the position would have been, generally, no different from that of calling a Casualty Surgeon. Accordingly, on this aspect of matters, had the Lothian and Borders system been in place, it would have made no difference to the outcome.

As to the questions to be asked by the Custody Officer of the prisoner, it appeared that the computerized system in Lothian and Borders contains a larger number of prompts on the computer screen. Sergeant Lang gave evidence that the Strathclyde police system of prompts were an adequate framework for asking the relevant questions of the detainee. His view was that a more detailed set of prompts might be unduly restrictive to the Custody Officer in carrying out his assessment. It was clear from the professor's evidence that the many prompts were rattled through. It was submitted that there was no substitute for a fully trained and experienced custody officer and there is something in that.

There was nothing in the professor's evidence to suggest that the system of prompts used by the Strathclyde police force contained a defect which contributed to the death of Ms Wingate. Had sergeant Lang used all the suggested Strathclyde questions, the position would have been the same. It was not suggested that there was any defect in the system of working and I accept that.

I require in terms of section 6(1)(e) to determine if there were any other facts relevant to the circumstances of Ms Wingate's death, the potential contributory causes of the death being heroin intoxication and hyperthyroidism. The post mortem examination determined that Ms Wingate had evidence of drug consumption in the months up to her death including the consumption of heroin not less than three hours before her death.

Dr. McAdam was clear that the ingestion of heroin more than three hours prior to her death was not the major cause for Ms Wingate's death. For the reasons set out above, her evidence was that the fact of the presence of heroin in her system would not have been helpful in any attempt to resuscitate her.

The existence of her hyperthyroid condition, which was probably not being controlled by medication at the time of her death may have contributed to her death. The condition tended to make the heart beat faster and that may have contributed to its collapse. Dr. Mc Adam also pointed out that a person with Ms Wingate's conditions and drug taking would result in her experiencing highs and lows and she would not really know how well or ill she was feeling on any particular occasion. Ms Wingate

did not use the emergency call button in her cell but was found lying down with her blanket pulled over her. In the circumstances it may have been that she was not in a position to assess whether she was becoming unwell.

Dr. Stoddard was of the view that more people than not, who collapsed of heart failure would feel unwell up to an hour before collapse, that immediate collapse was unusual; Dr. McAdam did not agree with Dr. Stoddard. Her view was that sudden heart failure collapse was not unusual and on the detailed circumstances surrounding her death it was more probable that she died suddenly. On the whole surrounding circumstances of Ms Wingate's collapse I consider that Dr. Adam's view is to be preferred.

There were not any other facts which were relevant to the death of Ms Wingate.

Point 4 for determination at the Inquiry

Whether the provision of cover for observations during staff breaks had any relevance to the circumstances of the death.

Miss McKenzie, the turnkey, gave evidence that at 10:50 a.m. she spoke to Sergeant Lang requesting his confirmation that that time would be a suitable time for her to take her one hour meal break. She said that Sergeant Lang had agreed. Sergeant Lang had no memory of such a conversation.

I consider that Miss McKenzie's memory of that event is to be preferred as it was a matter of importance to her. I gained the impression from the evidence of Miss McKenzie that the responsibility for covering the meal break time lay with Sergeant Lang. As this was not a matter that had been explored with Sergeant Lang initially I asked for him to be recalled and the matter was investigated.

In the particular circumstances of this case, as Miss McKenzie had carried out a half hour check at 10.50 a.m. and shortly before 11:30 a.m., the half hour check regime involving Ms Wingate was broadly observed. No issue was raised that there was a gap in the regime, and on the evidence there was no such issue.

Nonetheless, the evidence of Sergeant Lang was to the effect that unless he was advised otherwise by the turnkey on duty, he would expect the turnkey to carry out the required observations during her meal break. Perhaps more by implication than express evidence, I gained the distinct impression that Miss McKenzie was of the view that the primary responsibility to cover inspections during her meal break lay with the Custody Sergeant, and that when on a break, she did not have the responsibility prisoner care.

The requirement for less than hourly checks is not frequent and during certain shifts such as the morning shift when Ms Wingate was in the cells the requirement was rare. Further, there appeared to be a good working relationship between the turnkey and the Custody Officer. My attention was not drawn to a standard operating procedure to cover this matter. Nonetheless, I consider that the difference of view points up a possible weakness in the system.

In terms of the Standard Operating Procedure it is clear that the Custody Officer carries a continuing responsibility for prisoners in his care. It seems to me that there should be no dubiety about the duties of turnkeys during meal breaks and, at least on the evidence I heard, there is such a dubiety.

This may be a matter that more related to terms and conditions of employment. However, it impacts on the duties and responsibilities of both the turnkey and the Custody Officer, and it could have had an impact on the welfare of prisoners in their care. I am satisfied that it did not do so in the case of Ms Wingate, as Ms McKenzie resumed duties, but that was a matter of chance and it should not have been left to chance. I consider that the matter should be looked by Strathclyde Police.

In the circumstances the issue has no relevance to the circumstances of Ms Wingate's death.

I attach an appendix relating to witnesses.

Appendix

The witnesses

Dr. Latif

He was Ms Wingate general medical practitioner for many years. He gave straightforward evidence about the medical history of Ms Wingate. His evidence was credible and reliable.

Police constable Ellis Anderson

The constable was part of the drugs search and she detained Ms Wingate, escorted her to the police car in Broomlands Street and was with her until put in cell F2.

Officer Anderson gave evidence in a straightforward manner and there was nothing in her demeanour to raise questions about its credibility and reliability. Most of her evidence was unchallenged. She stood up well to cross examination. I have come to the conclusion that she did not mention Ms Wingate's swollen ankles to sergeant Lang. More than two years have passed since the events of 9th October 2009 and I do not consider that my decision on these points alters unduly my view of the rest of her evidence. On the matter of whether Ms Wingate was walked fast or dragged, which she denied, I have come to no concluded view.

James Pouvrie

Mr Pouvrie was a friend of Ms Wingate's father and former neighbour of Ms Wingate. He had an ambivalent attitude to the police. Overall, I considered that Mr Pouvrie's perception of what was happening in Broomlands Road may have been distorted and in consequence his evidence used heightened language and was less reliable. The matter is one of degree.

Police constable Laura Morrison

Police constable Laura Morrison gave evidence in a measured and professional manner. Her evidence was straightforward and, like constable Anderson, was broadly supported by the context of the recording of the drugs search. Her evidence about the

transfer of Ms Wingate to the car was in line with what her colleague said. On the matter of transfer to the car I formed no concluded view.

She was not present at the charge bar.

Sergeant Ian Lang

As the actions and decisions of Sergeant Lang on 9 October 2009 were central to the inquiry, his evidence came under particular scrutiny.

Sergeant Lang is 49 years old and has 30 years police service. He had been a Custody Officer for over three years and had been brought in on this day because of his experience and the fact that there were likely to be a need for processing more prisoners in the custody suite.

Sergeant Lang gave his evidence in a measured and professional manner and on his first appearance was neither up nor down in his questioning and cross questioning. His approach was to tell the court what had happened, why he had made the decisions that he done, leaving it to the inquiry to determine matters. That said, his evidence demonstrated that he was secure in his belief that what he had done that day was correct, appropriate and in accordance with the requirements of his employers and in fulfilment of his duty of care to Ms Wingate. As noted elsewhere, there were some differences in the evidence of all those at the bar at the time. In particular, sergeant Lang on at least two occasions did not address an answer to the crucial question about there being the slightest reason to believe that Ms Wingate had taken drugs. His evidence was diminished in weight because of that.

The evidence of Sergeant Lang was supported by Constable McDonald.

The evidence of Miss McKenzie and Sergeant Lang differed on the matter of being told about her meal break.

While I consider it more likely that he was told by Miss McKenzie, I consider that the matter would be of no particular significance to Sergeant Lang having regard to his attitude towards meal breaks.

When Sergeant Lang was recalled about the meal break matter he gave his evidence in a straightforward manner and while I preferred the evidence of Miss McKenzie on this aspect of the matter, it did not affect my view of his credibility and reliability.

Michael Duffin

Michael Duffin was the partner of Ms Wingate at the time of her death. He was a detainee on 9th October 2009.

At times in answer, he did not address the questions asked of him. I came to the view that he was substantially confused about matters.

When asked if he had told police officers, during the drugs search, that Ms Wingate had taken heroin the night before, his first position was that he did not say that it was Ms Wingate, that he had said it about Mr Sloan.

That answer appeared to proceed on the basis that Ms Wingate had not taken drugs.

Later, when Mr Williamson tried to clarify the matter by reading him parts of his police statement given on 9th October 2009 which stated that Ms Wingate had taken drugs earlier, he was not able to address that issue in terms. When first asked whether he had told the police officer that Ms Wingate might have taken smack; there was no answer, and then an answer that the other three [detainees] had said that she hadn't. He was asked if at the time of the drugs search he thought she had taken smack, his reply was that he had been told by the three others that she hadn't, and continued in that vain until, after repeated questioning, he accepted that he had told the police officer that she had taken smack.

In other parts of his evidence he said that the police had been heavy handed. In cross examination, he accepted that he had told police officers later that day that the way the police had dealt with him had been "fine", saying that he may have said that. He also accepted that he had told the police officers that the way they had treated Katie was "fine", in circumstances where he maintained earlier in his evidence that Katie had been dragged to the police car.

Early in his evidence he had given somewhat confused evidence about Katie's medical health. He denied that she had been given anything by the doctor, said that she was not off sick and, therefore, had no need to go to a doctor. He was asked if she had medical problems with her heart and thyroid. He replied that he was aware of a thyroid condition at some point in the past.

His position was that on the morning (9th October) she wasn't herself, but accepted later that he had told the police officers at 5:52 p.m. that afternoon that "Katie looked fine and there were no problems at all. Katie seemed fine when I last saw her", that at Mill Street (the police station) she had given him a kiss and told him that she loved him and, "….she looked alright to me."

He also maintained in evidence that Ms Wingate did not take heroin. His initial evidence was that she was in good health generally but on the 9th she was unwell because she couldn't stand or open her eyes. He also said the night before that he had seen her lying on the couch face down out of it on smack, and so forth.

In these circumstances it is difficult to reconcile the various things that he was saying. If what he said to the police officers immediately after the event is true, and he reluctantly accepted that it was what he had said, then his evidence in court must be untrue to some extent and unreliable. Accordingly, I could not attach much weight to his evidence.

Heather McKenzie

The evidence of Miss McKenzie was well focussed. It was given in a clear and detailed manner with a confidence that was not challenged or dented by detailed questioning.

The many small details of her evidence presented a picture that was quite clear in relation to the state of Ms Wingate on that day. Items such as Ms Wingate taking off her own jewellery during the search of her, Ms Wingate's quip about a heavy as she walked to the cells, the fact that Ms Wingate presented on that day exactly as she had presented on previous occasions in earlier years, of Ms Wingate expressing irritation about not being seen, and of Ms McKenzie giving her a magazine to divert her

attention, all contributed to a clear and detailed picture of Ms Wingate's condition on 9th October.

Miss McKenzie's evidence was supported by the contemporaneous record of visits to Ms Wingate on the computer and of her status.

Miss McKenzie was asked if, in hindsight, she considered she would have done anything different in connection with Ms Wingate. She indicated that she had been through it in her mind and considered that there was nothing more that she could have done. I accepted that. I accepted too, her statement that she had a say in deciding whether to accept responsibility for a prisoner and that, had she had any concerns about Ms Wingate's health, she would not have accepted her.

She indicated that on occasions where a custody officer has accepted a prisoner, she had indicated that she refused to accept that prisoner on medical grounds. She presented as being a person on top of her job who would do such a thing and be listened to.

Her evidence gave confirmation of the evidence of the other police officers that Ms Wingate's presentation did not give rise to the slightest belief that she was unwell.

Police constable McDonald

Constable McDonald gave evidence in a straightforward way. His evidence was competently given and not affected by any questions put to him. On that matter of whether constable Anderson had commented on Ms Wingate's mobility or swollen ankles, he indicated he could not remember that being said, but accepted it as a possibility. His memory was that Ms Wingate had twice denied that she had taken drugs when asked by constable Lang and answered, "No" to Sergeant Lang's question about her medical condition. The matter of fact way that constable McDonald gave evidence, lent significant support to the evidence of Sergeant Lang.

Detective Sergeant McAllister

Detective Sergeant McAllister gave general evidence about the background to the drugs operation and gave some evidence about the emergency treatment given to Ms Wingate in cell F2. He was not cross examined.

Ian Bryce the paramedic

He gave evidence about the procedures carried out by him with a view to resuscitating Ms Wingate.

He arrived at the police station speedily and this was spoken to by one of the earlier witnesses. His evidence was given in a professional manner and I accepted his description of the work carried out by him.

Police Officer Jill Malaney

She became involved after Ms Wingate was found unconscious in her cell. She accompanied Ms Wingate to hospital and was advised by the doctors that Ms Wingate's life was extinct. I accepted her evidence about the steps taken by her that day.

Police Inspector Doherty

He became involved after Ms Wingate was found unconscious. I accepted his narrative of the part he played on the day of Ms Wingate's death.

Ambulance Technician Philip Coyle

He gave evidence about arriving by ambulance with his colleague, Andrew McCrossan, after Mr Bryce, and of conveying Ms Wingate to hospital and handing her over to the hospital staff. I accepted the narrative of the part he played.

Dr. Stoddard

He was the consultant in emergency medicine at the Royal Alexandra hospital in the department on the day of Ms Wingate's death. He was present in a supervisory role and watched colleagues deal with Ms Wingate at the Royal Alexandra hospital.

Dr. Stoddard's evidence was given in a professional manner and his opinions were expressed in measured terms.

Dr. McAdam

She was the pathologist who carried out the post-mortem on Ms Wingate. She was an impressive witness. She gave clear and detailed evidence, and where that evidence was gone into, she gave full and convincing answers to the questions asked. Professor Busuttil spoke in glowing terms of the quality and thoroughness of the post mortem examination carried out by her.

I found the evidence of Dr. McAdam had weight and I accepted her evidence.

Mr Williamson called on behalf of his client:-

Donna Marie Miller,

She appeared to be a partner of a person who was arrested in that morning's drug initiative. She appears to have been processed in the custody suite in Mill Street that day and was ultimately released at 11:00 p.m.

My impression was that it was thought that Ms Miller was in a position to give evidence relevant to the inquiry, but in the result she did not. She was not cross examined.

Professor Busuttil

Professor Busuttil is the recently retired Emeritus Professor of Forensic Medicine at Edinburgh University.

I found the evidence of Professor Busuttil of considerable interest. It was based on a great deal of detailed knowledge in his field and his opinions were measured.

At the end of the day the professor accepted that what should be done with a detainee depended on the condition of the person in front of him.

Professor Busuttil also accepted that the provision of water retention medication and medication for her overactive thyroid and medication for arrhythmia would not have

had an instant effect on Ms Wingate in the context of reversing cardiac failure, as these medications required time to work.

The professor spoke with authority on all matter he addressed. Where I preferred other evidence to his, it was because his evidence was inevitably one place removed from the evidence of others.