SHERIFFDOM OF GLASGOW AND STRATHKELVIN AT GLASGOW

[2021] FAI 30

GLW-B1816-19

DETERMINATION

BY

SHERIFF TONY KELLY

UNDER THE INQUIRIES INTO FATAL ACCIDENTS AND SUDDEN DEATHS ETC (SCOTLAND) ACT 2016

into the death of

KEVIN CONNOLLY

Glasgow 26 April 2021

Determination

The sheriff, having considered the information presented at an inquiry into the death of Kevin Connolly (born 2 June 1974) under section 26 of the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Act 2016, finds and determines:

1. In terms of section 26(2)(a) of the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Act 2016, Kevin Michael Connolly died on 06 July 2018 within cell 12 D Hall North Lower, HMP Barlinnie, 81, Lee Avenue, Glasgow, G33 2QX. The time of his death was recorded at 07.06 hours on that date.

2. In terms of section 26(2)(c) of the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Act 2016, the cause of death was bronchopneumonia.

3. I have no findings to make under paragraphs (b), (d), (e), (f) or (g) of section 26(2) of the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Act 2016.

4. I have no recommendations to make under section 26(1)(b) of the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Act 2016.

Legal Framework

[1] This inquiry was held in terms of section 1 of the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 ("the 2016 Act"). Mr Connolly died while in custody as a convicted prisoner. In terms of section 2, the inquiry was a mandatory inquiry. The inquiry was governed by the Act of Sederunt (Fatal Accident Inquiry Rules) 2017 ("the 2017 Rules").

[2] The purpose of the inquiry is, in terms of section 1(3) of the 2016 Act, to establish the circumstances of the death of Mr Connolly and to consider what steps (if any) might be taken to prevent other deaths in similar circumstances. It is not the purpose of the inquiry to establish civil or criminal liability (section 1(4) of the 2016 Act). The manner in which evidence is presented to an inquiry is not restricted.

[3] Section 26 of the 2016 Act sets out what must be determined by the inquiry:

> "**The sheriff's determination**
> (1) As soon as possible after the conclusion of the evidence and submissions in an inquiry, the sheriff must make a determination setting out—
> (a) in relation to the death to which the inquiry relates, the sheriff's findings as to the circumstances mentioned in subsection (2), and
> (b) such recommendations (if any) as to any of the matters mentioned in subsection (4) as the sheriff considers appropriate.

(2) The circumstances referred to in subsection (1)(a) are—

(a) when and where the death occurred,

(b) when and where any accident resulting in the death occurred,

(c) the cause or causes of the death,

(d) the cause or causes of any accident resulting in the death,

(e) any precautions which—

(i) could reasonably have been taken, and

(ii) had they been taken, might realistically have resulted in the death, or any accident resulting in the death, being avoided,

(f) any defects in any system of working which contributed to the death or any accident resulting in the death,

(g) any other facts which are relevant to the circumstances of the death.

(3) For the purposes of subsection (2)(e) and (f), it does not matter whether it was foreseeable before the death or accident that the death or accident might occur—

(a) if the precautions were not taken, or

(b) as the case may be, as a result of the defects.

(4) The matters referred to in subsection (1)(b) are—

(a) the taking of reasonable precautions,

(b) the making of improvements to any system of working,

(c) the introduction of a system of working,

(d) the taking of any other steps, which might realistically prevent other deaths in similar circumstances."

Introduction

[4] Evidence was heard over six days: 14 September 2020; 15 September 2020; 16 September 2020; 17 September 2020; 9 November, 2020 and 1 February 2021. I then adjourned the inquiry to afford parties an opportunity to prepare and lodge detailed written submissions. The inquiry convened again on 2 March, 2021 via Webex when I heard the participants' representatives thereon.

Representation

[5] Ms Knox, Procurator Fiscal Depute represented the Crown. Mr Mclean, Solicitor represented the interests of Anne Connolly, Kevin Connolly's mother. Ms Wallace, Solicitor appeared on behalf of the Scottish Prison Officer Association with Mr Smith, Solicitor representing the Scottish Prison Service. Mrs MacNeill, Advocate, appeared on behalf of Greater Glasgow Health Board and NHS Lanarkshire. I am grateful to the parties' representatives for the professionalism and diligence with which they conducted the inquiry. In particular, the Procurator Fiscal Depute was responsible for marshalling a wealth of material and ensuring that the productions were properly before the court including making available electronic copies in order that the guidance applicable in the wake of the coronavirus pandemic could be respected. All of the parties' representatives discharged their professional responsibilities with care and sensitivity (as I had cause to remark upon at the close of the inquiry). A detailed joint minute was entered into agreeing certain evidence in relation to Mr Connolly's pre-existing medical conditions, medication, treatment and care. I have incorporated these in my summary of what happened to Mr Connolly in the days leading up to his death.

Witnesses

[6] The court heard evidence from the following witnesses:

1. Police Constable Paul Sim, Police Scotland.
2. Mr Alex MacKenzie, Charge Nurse, Hairmyres Hospital East Kilbride.
3. Dr Lewis Jackson G.P. and Registrar, Hairmyres Hospital East Kilbride

4. Mr Diarmid Bruce, Solicitor.

5. Herschel Stevens, custody escort.

6. Ms Deborah Byrne, Nurse Practitioner, HMP Barlinnie.

7. Ms Gillian McNally, Nurse Practitioner, HMP Barlinnie.

8. Mr David Connelly, Reception Prison Officer, HMP Barlinnie

9. Ms Laura Connelly, Nurse Practitioner, HMP Barlinnie.

10. Dr Grace Campbell, Head Clinician, HMP Barlinnie.

11. Mr Martin McGrory, Prison officer, HMP Barlinnie.

12. Mr Martin Thomson, Prison officer, HMP Barlinnie.

13. Ms Mary Mitchell. Nurse Manager, HMP Barlinnie

14. Mr Peter Connolly, brother of Kevin Connolly.

15. Inspector Stephen McManus, Police Scotland.

16. Dr Anya Wallace Consultant in Emergency Medicine, Glasgow Royal Infirmary.

17. Dr Michael Johnston, Ninewells Hospital Dundee.

18. Dr Marjorie Turner, Pathologist.

I am grateful also to each of the witnesses who made themselves available to give evidence to assist the inquiry. I found all of the witnesses to be credible and reliable. There was no dispute on the evidence which I require to resolve. Parties were at one in moving the court to make a determination in what is termed "formal findings". In light of the evidence I was able to concur with that joint position. In deference to the time and resources expended, and more particularly out of respect to Mr Connolly's family, I

narrate here what happened to him in his final days.

Kevin Connolly

[7] The descriptions provided to the inquiry of Mr Connolly's medical history, treatments and assessments, together with a description of what led to his involvement with the police on 29 June 2018, tell us little of him. The inquiry gained some insight into Mr Connolly's personality from those who gave evidence about him and their memories of him.

[8] Kevin Connolly's brother, Peter Gerard Connolly gave evidence. He described his brother in some detail. He was born in 1974 and thus aged 44 years when he died. He was the second youngest of a family of ten children. They were a close family. Peter Connolly described his brother as a "character" who enjoyed people. Peter Connolly was able to describe the areas of town that his brother liked to frequent. Kevin Connolly was someone who told stories and jokes over and over again. He did not keep the best of health. His various pre-existing medical conditions were the subject of agreement. He suffered from epilepsy and had mobility difficulties. He had to be lifted at times. He lived alone though "always wanted to be about people". He regularly saw his family and friends. There was social work intervention which amongst other things supported Kevin Connolly with his medication.

[9] Ms Deborah Byrne, a nurse at HMP Barlinnie knew Kevin Connolly well from dealings with him during previous periods of imprisonment. Ms Byrne recalled Mr Connolly being very pleasant, always joking. Gillian McNally, a senior nurse in

HM Prison, Barlinnie knew Kevin Connolly and described him as "a character – funny telling jokes; very kind; a sweet nice gentleman". She told the inquiry she liked him and got on well with him. Laura Connolly a nurse at HMP Barlinnie knew Kevin Connolly from his several prior admissions there. Ms Connolly also described him as "a character". She too had got on well with Mr Connolly.

Medical History

[10] Kevin Connolly had a significant past medical history. He had an intracerebral haemorrhage in 1995 in relation to an arterio-venous malformation in his brain and was left with left sided weakness. Arterio-venous malformation is a congenital problem which relates to the presence of abnormal connections between smaller arteries and veins within the substance of the brain. As a result of having had a previous cerebral haemorrhage Mr Connolly had developed epilepsy for which he was prescribed levetiracetam. He was also under investigation as an outpatient at Glasgow Royal Infirmary for possibly having an insulinoma.

[11] Mr Connolly was admitted initially to the Accident & Emergency Department at Hairmyres Hospital on 16 June 2018 after an ambulance had been called to his home on account of him reporting that he had suffered from a seizure during the night and had woken up shaking. Upon assessment at the Accident & Emergency department, a CT head scan showed bilateral basal ganglia calcification with prominent ventricles but cerebrospinal fluid demonstrated a foramen magnium. It was noted that he had been investigated for insulinoma, but blood sugar levels were never low during this

admission. A blood test revealed an abnormally elevated sodium level which was thought to be due to Mr Connolly being dehydrated. He was given intravenous fluids however his sodium levels remained abnormally high and he was therefore referred for inpatient admission for further investigation and treatment.

[12] Upon further assessment it was noted Mr Connolly had a weakness of his left arm and leg and appeared intermittently drowsy. He underwent a CT scan which did not reveal any new changes; in particular there was no evidence of any further haemorrhage in relation to his previously diagnosed arterio-venous malformation. Additional blood tests were performed. Mr Connolly was found to have abnormally low levels of platelets, red blood cells and white blood cells. Due to the findings of the blood tests he had a bone marrow aspirate as well as immunoglobins, protein electrophoreses and a blood film. Mr Connolly was also noted to have a biochemical evidence of abnormal liver function. Both were subsequently investigated by way of ultrasound and CT scan, both of which were unremarkable. Throughout this time in hospital it was noted Mr Connolly had repeated observations performed in relation to his temperature and oxygen saturations.

[13] During this period as an inpatient at Hairmyres Hospital, Mr Connolly displayed episodes of unacceptable antisocial behaviour. He was spoken to by medical staff and warned that his behaviour was unacceptable. However, incidents escalated such that other patients required to be moved overnight into a day room. Mr Connolly pulled at and threw equipment and furnishings, endangering staff and patients. In view of his behaviour it was decided that Mr Connolly be discharged from the hospital to his home.

At the point of his discharge he had been assessed as being clinically ready for discharge. Mr Connolly was informed that should he become more unwell he should return to hospital where he would be treated as appropriate. His General Practitioner and his mother were contacted and made aware of his discharge.

[14] At the time of Mr Connolly's discharge, his overall condition had returned to his own baseline, his bloods had returned to normal and were much improved. Arrangements were made with the Red Cross to take Mr Connolly home on 29 June 2018. Upon the arrival of the Red Cross representative, Mr Connolly became angry and is alleged to have assaulted a nurse and a fellow patient. His behaviour was subsequently reported to the police. A Discharge Summary was prepared by Dr Louise Clark, Consultant Physician and Endocrinologist and was produced.

29 June 2018

[15] PC Paul Sim received a call from Hairmyres Hospital on 29 June 2018 and attended at Ward 10 where he and his colleague, PC McKay noted statements describing Mr Connolly's inappropriate behaviour there. In light of that conduct Mr Connolly was to be discharged. Before that could happen he left the hospital of his own accord.

[16] PC Sim and PC McKay attended Mr Connolly's home on 29 June 2018 at 18.00 with the aim of arresting him. A check of the Police National Computer provided to the constables details of Mr Connolly's outstanding or pending matters and the existence of a warrant for his arrest. Noting Mr Connolly's condition and his limited mobility, the constables, after discussion with duty sergeant at Cathcart Police Office, advised

Mr Connolly that they would not arrest him. He would instead be the subject of a report to the Procurator Fiscal.

[17] Later that day, PC Sim received a call from his superior, Inspector McManus. He was advised to return to East Kilbride Police Office where Inspector McManus advised that he, his colleague PC McKay, Inspector McManus and Sergeant Anderson would be returning to Mr Connolly's home to arrest him. Inspector McKay directed the officers to arrest Mr Connolly. PC Sim was told this was because of severity of crime, and a pending warrant for Mr Connolly's arrest.

[18] On 29 June 2020 at 20.30 the four officers of Police Scotland - Inspector McManus, Sergeant Anderson and Constables Sim and McKay - attended at Mr Connolly's home where they arrested him. He could not walk unaided and had to be helped to the police car.

29 June 2018: Hairmyres Hospital, Accident & Emergency Department

[19] After his arrest on 29 June 2018 Mr Connolly was taken to the Accident and Emergency Department of Hairmyres Hospital in East Kilbride. He was spoken to in the back of the police car by Charge Nurse Alexander McKenzie and Doctor Jackson. He was not admitted to the hospital.

Charge Nurse MacKenzie

[20] Alexander MacKenzie, a Charge Nurse, employed in the Accident & Emergency Department at Hairmyres Hospital was aware from the Night Manager that the police

were called to remove Mr Connolly from a ward earlier that day. Mr MacKenzie recalled his interaction with Mr Connolly on 29 June 2018. A police officer came into the department. Mr MacKenzie did not know his name or rank. The police officer said that Mr Connolly was in custody and wished to speak to someone but did not say why. Mr MacKenzie agreed to go to speak to Mr Connolly. Mr MacKenzie thought the reason he was speaking to Mr Connolly was because of a "welfare concern". He was spoken to in the back of the police car. It was not the usual procedure to see someone in the back of a police car. Mr Connolly was asked what happened and seemed "quite sheepish". Mr Connolly did not go into detail but wanted to go back to the ward. Mr MacKenzie concluded that was because Mr Connolly was back in custody and did not want to go back to prison. Mr Connolly complained of being hungry. Mr MacKenzie left to get him a sandwich.

[21] Mr Connolly had no shortness of breath, no cough, no rapid breathing, no sweating and no shivering. He was not confused. He was not complaining of any medical condition. Mr Connolly did not appear unwell. Mr MacKenzie described him as being "as lucid as [he] had witnessed him in a long time". If Mr Connolly had been unwell he would have been brought into the department.

Dr Jackson

[22] Dr Jackson is a General Practitioner. As part of his training he spent 6 months in the Accident & Emergency Department at Hairmyres Hospital. This was linked to his training in general practice. Dr Jackson was at a desk in the Accident and Emergency

Department on 29 June 2018 when a police officer walked through the emergency doors and spoke to a nurse there. The police officer asked if "we wanted to see him". There was a discussion which Dr Jackson described as "generally quite vague". He and a nurse (Mr MacKenzie) went outside the department. Dr Jackson was aware of the circumstances that led to Mr Connolly's discharge; about him being abusive to staff. Dr Jackson was also aware Mr Connolly was due to be discharged if he had not departed the hospital himself. Dr Jackson thought that the police request was "to keep themselves right". Dr Jackson was not asked to go to speak to Mr Connolly but offered to do so. Ordinarily Dr Jackson would check notes before speaking to a patient but this was not an ordinary situation. This was the first time he had gone to see someone in the hospital car park. Dr Jackson got into the back of the police vehicle with Mr Connolly and with Nurse Alex MacKenzie. Mr Connolly was asked if he was aware why the police had brought him to Accident & Emergency and he said "no". Mr MacKenzie asked him if there were any medical complications or if he was feeling unwell. Mr Connolly said "no". Mr Connolly did not want to come into the Accident & Emergency department to be assessed, and therefore no formal assessment was carried out.

[23] Dr Jackson had no concerns about Mr Connolly. He spent maybe 3 to 5 minutes with him and spoke to the police officers after this conversation. The officers may have asked Dr Jackson whether Mr Connolly was fit for custody. If they did Dr Jackson would not have answered such an enquiry. He did not consider that to be part of the remit of Accident & Emergency staff – "It is not necessarily our job". Dr Jackson would

not report Mr Connolly as "fit for custody" but may have confirmed that there was no reason to admit him to the hospital. Mr Connolly had not expressed the view that he was unwell. If there were any concerns Dr Jackson would have brought him into the Accident & Emergency Department. Mr Connolly did not complain of any shortness of breath or cough, sweating or shivers, or of rapid breathing.

Inspector McManus

[24] Inspector McManus said he wanted the doctor to assess if Mr Connolly was well enough to be taken into custody or required to be admitted to the hospital. If the doctor had wanted him taken in to the hospital they would have carried him in to the Accident and Emergency department. Inspector McManus stood back when Dr Jackson was in the car with Mr Connolly. He did not know what was said between them.
Inspector McManus was not medically qualified and deferred to Dr Jackson about whether the conditions were satisfactory for a physical examination.
Inspector McManus wanted to see that there were no immediate concerns about him being taken into police custody. Dr Jackson said there were no specific concerns and no admission was required. If Dr Jackson said that Mr Connolly required to be admitted or to be brought into the hospital then the officers would have done that.

[25] On 29 June 2018 Mr Connolly was then taken to Cathcart Police Office, where, at 21.05, he was wheeled into the custody suite.

30 June 2018: Hairmyres Hospital, Accident & Emergency Department

[26] At 19.36 on 30 June 2018 Mr Connolly was taken in an ambulance from Cathcart Police Office to Hairmyres Hospital, as he was complaining of chest pain. He was triaged by a nurse and consulted again with Doctor Jackson. The nursing review and the priority to be accorded to Mr Connolly was recorded in the medical notes from the hospital. Because Mr Connolly was complaining of chest pain an ECG would have been instructed according to Dr Jackson. An observation chart would record his height, weight, blood pressure, temperature – his vital signs. When a patient appears with chest pain Dr Jackson said he would rule out serious causes such as an underlying heart attack or an abnormality of the heart or lungs. He would then move to rule out other explanations moving from the more serious to include acid reflux or heartburn which mimics a heart attack and muscular chest pain.

[27] Mr Connolly presented as relaxed and was not in a great deal of pain. Dr Jackson asked a lot of detail to get a full history from Mr Connolly. His account was unclear. He was not able to provide a lot of information. He was vague about the pain and when it started. When Mr Connolly's history was taken by Dr Jackson when they were alone. Mr Connolly would have been able to speak freely. In relation to chest pain, an ECG would rule out a heart attack as would the blood tests. Dr Jackson looked at the ambulance records. Mr Connolly did not complain of a shortness of breath or a cough. Dr Jackson recorded a past medical history. There was a history of drug abuse. Mr Connolly was in police custody. His medications were listed. Dr Jackson queried whether there was a muscular cause for the chest pain. On examination Mr Connolly's

left side was sore. Dr Jackson sounded out his chest. It was tender on examination indicating a muscular chest pain. He could rule out a pulmonary embolism. There was no focal or acute changes on the chest X-ray. There was a query because Mr Connolly had changed his story. If it was muscular pain, no test could detect this and analgesia would be offered. Having run through pulmonary embolism and pneumothorax, pneumonia would also be considered. This would be detected by listening to the chest and picking up crepitation, bronchial breathing and harsh breath sounds. There was nothing at that time to indicate that Mr Connolly was suffering from bronchial pneumonia. He did not have a cough, shortness of breath, fever or chest pain. Symptoms of an infection include a high fever and vomiting. None of these were present on 30 June. There was no reason to admit Mr Connolly to hospital. There was no barrier to admission if it were required. When Dr Jackson saw Mr Connolly on 30 June 2018 he did not have pneumonia.

[28] On 1 July 2018 at 00.31 Mr Connolly returned to Cathcart Police office. When he heard his brother had been arrested on 29 June 2018, Peter Connolly tried to find out where he had been taken. He phoned a number of police stations in order to communicate how unwell his brother was. Peter Connolly was reassured by the police officer that he eventually spoke with that his brother was subject of 24 hour observations. His mother spoke to Kevin Connolly's solicitor and told him about the family's concerns regarding his mental health.

2 July 2018: Hamilton Sheriff Court

[29] At 12.30 on 2 July 2018 Mr Connolly was transported from Cathcart Police office to Hamilton Sheriff Court for a custody appearance. He arrived there at 12.52 and was placed in a cubicle where he could be observed at all times. He spoke with his solicitor. He was slumped over a desk and was uncommunicative. The court convened at the cubicle where Mr Connolly remained. He was remanded in custody for a future court appearance.

[30] During his time at Hamilton Sheriff Court Mr Connolly soiled himself by urinating and defecating upon himself. He departed Hamilton Sheriff Court at 19.05. When Herschel Stevens, Prison Custody Officer attended to transport him from Hamilton Sheriff Court to HMP Barlinnie, Mr Connolly was unresponsive. He communicated only by grunting. Mr Connolly walked into the escort car at Hamilton Sheriff Court. Despite him having soiled himself he was transported by vehicle to HMP Barlinnie without being changed or cleaned. The accompanying escort officers donned protective biohazard suits.

2 July 2018: HMP Barlinnie

[31] On 2 July 2018 upon his arrival at HMP Barlinnie at 20.11, Mr Connolly stated he could not get out of the car. A wheelchair was summoned for his assistance. Nurses Deborah Byrne and Gillian McNally attempted to persuade him out of the vehicle and into reception at the prison. Ms Byrne came out of the health centre to see Mr Connolly. She was in charge of the shift at that time. Mr Connolly said he could not walk.

Mr Connolly was not happy that it was Ms Byrne who was present. He said to his escort "She'll make me walk". Mr Connolly had been transported out of the prison to hospital during his last admission. He had a full check-up and was then returned to custody. On 2 July 2018, Mr Connolly said he had a weakness and could not stand up. Mr Connolly was fully alert and "chatty". Ms Byrne carried out a rudimentary assessment of Mr Connolly at the escort car, asking him to squeeze his hands and to raise his hand. He was fully alert. Mr Connolly did not say he was particularly unwell. There was no complaint of sweating or shivering or chills. There was no shortness of breath. Mr Connolly was talking in complete sentences. He was not breathing rapidly or coughing.

[32] Ms Byrne had asked Mr Connolly if he was coming in to the reception area and he said he did not want to come in. On that basis, so Ms Byrne explained, he would have to go back to the hospital. It was safer for his court escort to transport him there, as opposed to wait for the prison staff to take him. It was Ms Byrne's decision to send him to hospital.

[33] Mr Connolly had urinated and defecated. The escorts with Mr Connolly had full biohazard suits on. At other times Ms McNally had prior dealings with him before this admission – he was not incontinent.

2 July 2018: Glasgow Royal Infirmary

[34] Mr Connolly attend at GRI on 2 July 2018 at 20.47 and was seen by Dr Anya Wallace a Consultant in Emergency Medicine at 22.30. At the time of the Mr Connolly's

attendance there she had been employed as a locum Consultant in Emergency Medicine at the Glasgow Royal Infirmary for 7 months. Mr Connolly was booked in with a presenting complaint of a collapse. He made several complaints of illness of which his description varied throughout the consultation. Nursing staff measured Mr Connolly's physiological parameters on two occasions at 2222 hours and 2300 hours and noted they were within normal limits. Doctor Wallace conducted a physical examination of Mr Connolly and noted old bruising above his left eye and a pale appearance. This paleness was confirmed to Doctor Wallace to be normal for Mr Connolly. Doctor Wallace further noted increased tone, reduced power and reduced coordination in his left arm and leg which were longstanding, confirmed by reviewing her previous notes. Doctor Wallace also noted heart sounds were pure, that Mr Connolly had bilateral good air entry into his lungs, with no added sounds and that his abdomen was soft and non-tender on palpation.

[35] In the course of Mr Connolly's time at Glasgow Royal Infirmary on 2 July 2018, Dr Wallace spoke to a number of individuals including a consultant colleague and escort officials who were with Mr Connolly. She consulted digital notes regarding his previous hospital attendances. Dr Wallace read from her handwritten notes lodged with the court. She was unsure what notes she could consult from Mr Connolly's previous attendances at other hospitals, for example, from Hairmyres Hospital. She thought that the portal system would allow her to access previous attendances of the patient but not in the Accident & Emergency Department. She noted Mr Connolly's past medical history. The presenting complaint of "collapse" potentially covered a broad range of

issues. The consultant colleague with whom she spoke remembered a previous interaction with Mr Connolly. Dr Wallace noted a discrepancy between what Mr Connolly told her and what she had been told by the escorts with him. She recalled there was an issue of Mr Connolly having urinated and defecated, apparently deliberately. Dr Wallace put to Mr Connolly the difference in his account with what she had been told by the escorts. He deflected the questions. Dr Wallace spent some time with him and was able to build up a better rapport. Mr Connolly said he felt okay. He was not so worried. Towards the end of his time at the Accident & Emergency Department he seemed happy and content with the final decision to discharge him.

[36] Dr Wallace recorded on the notes what she had viewed on examination. She had sounded Mr Connolly's chest. There was nothing to suggest abnormality. He was asked to stand and take his weight and was able to do so. There was swelling in his ankles. There was nothing particularly concerning in this examination. There was nothing to suggest that further tests should be carried out. No X-ray was carried out. Mr Connolly said he felt well enough to be discharged. There was nothing in his presentation to suggest that he was acutely unwell. He was not short of breath. If he had been, that would have been documented. There was no fever or cough. His respiratory rate was normal. There was nothing abnormal about his chest. There was no indication he had bronchopneumonia. Symptoms of bronchopneumonia include a cough which is productive, shortness of breath and fever. If any of these symptoms had been detected or observed, further tests would have been carried out.

3 July 2018: Admission to HMP Barlinnie

Mr David Connelly

[37] On 3 July 2018 Mr Connolly returned to HMP Barlinnie at 00.40. Mr David Connelly, a reception prison officer, and three colleagues, processed Mr Connolly at the reception area of HMP Barlinnie. Mr David Connelly gave evidence about the reception process for prisoners entering the prison. Mr Kevin Connolly would be interviewed. This was noted on the prison record of Mr Kevin Connolly's admission. The interview concentrated around his mobility issues. He was unsteady on his feet. He could not walk around freely. This was noted on the record together with Mr Connolly's medication. Mr Connolly asked for a cup of tea which he received together with a sandwich. There was nothing untoward in the interview process. Kevin Connolly spoke freely. He was not unwell. He did not complain of being unwell. He was communicative. The members of staff talked of Mr Connolly having lost weight. Other than that there was nothing remarkable about Mr Connolly upon arrival at the prison and as he was processed. Documentation in connection with the SPS "Talk to ME" suicide prevention strategy was completed.

Ms Laura Connelly

[38] Mr Connelly then moved through to the health centre where he was assessed by Nurse Laura Connelly who said that she was able to spend some time with him. He was known to her. She competed entries in the VISION system confirming her observations. She noted Mr Connolly's low temperature. She attended upon him in his cell in B hall

later on - in the early hours of the morning of 3 July 2018 and at that time his temperature had risen slightly. She was unperturbed by that. She measured his blood sugars. Ms Connelly had dealings with Kevin Connolly during his previous times in prison, for example, taking medication to him. Generally his health was poor. He had a left sided weakness. He used a wheelchair for distances. There was nothing of concern when she last saw him. It was arranged that he would see a GP the next day. If there were any concerns there was an on-call doctor.

[39] There was no suggestion of Mr Connolly having shortness of breath. This would be noted. The activities that he could undertake were gone through and assessed. The extent of mobilisation difficulties were noted. He was helped into bed. There was no sweating, he was not chilled or feverish, and there was no cough, no shortness or rapidity of breath. Mr Connolly did not appear to be confused.

[40] Upon his return from the health centre, Mr David Connelly had a vague recall of Kevin Connolly's top being changed into a prison issue sweatshirt. He was then taken to the admissions hall. He would be placed on constant observation if any of the staff had a concern. Mr Connolly was not assessed as being a suicide risk. If he had been, the health centre would be alerted. Similarly with seizures, any such information would be passed to the health centre. The induction process takes around half an hour to 45 minutes. Mr Connolly was taken to his cell and got into bed. He may have been assisted into bed. A wheelchair normally cannot fit within the cell. Mr Connelly was satisfied that Kevin Connolly could go to the hall. There was a call button at the toilet door. Mr Connolly was not sweating, shivering or coughing. He was not confused, as

he was speaking clearly and freely. There was no shortness or rapid breathing. There was nothing untoward noted.

Dr Grace Campbell

[41] Mr Connolly was listed to see the doctor. This would happen as a matter of routine upon admission. Mr Connolly was examined in his cell by Dr Grace Campbell on 3 July 2018 at 11.05. Mr Connolly was known to Dr Campbell. She reviewed him and the available information. She examined him including listening to his chest. She reviewed the medication that Mr Connolly was receiving in the community and prescribed these. She noted her observations in the medical notes.

5 July 2018

[42] Martin McGrory a residential officer asked Nurse McNally to see Mr Connolly as he had refused to come out of his cell for his medication. His cell was untidy and he was not his usual chatty self. He was unkempt. Mr Connolly initially told Ms McNally to go away and, then realising it was her, was receptive and welcoming. Mr Connolly was lying in his bed and said he was fed up and did not want his medication. His cell was a mess. There was food and other debris on the floor and plates on the side table. Ms McNally had been in Mr Connolly's cell before and it was never that bad. She summoned help from the nurse Manager, Mary Mitchell and they got him ready for bed. They went in around 7.30 pm spending about 30 to 45 minutes washing him and cleaning out the cell. He wore paper trousers, presumably from the hospital.

Ms McNally assisted Mr Connolly out of bed and spoke to him about his medication. Ms McNally was able to persuade him to take the medication. Mr Connolly apparently had not changed his clothes. This was unusual. He was changed and washed and his bed "sorted". Mr Connolly did not seem physically unwell. He could move around his cell. Mr Connolly needed help out of bed and was sitting on a chair. He stood up and the nurses helped wash him. He was in a better mood when they left. They got him some cake and a cup of tea because he was hungry. Mr Connolly did not complain of being unwell. When Ms McNally left, Mr Connolly was in a better mood and was laughing. Mr Connolly was not sweating; he was not shivering; there was no cough, shortness of breath, or rapid breathing. If there was anything concerning then a doctor could be contacted.

[43] Mr McGrory checked on Mr Connolly before lock-up. He shouted to Mr McGrory, "Alright boss". He was moving from the seat onto the bed. Mr Connolly waved and acknowledged Mr McGrory.

5 July 2018 Lock up

[44] Martin Thomson a prison officer in the residential area within the prison of some 21 years' experience was involved on the final lock up check. This involved opening an observation hatch and getting a response from a prisoner. He recalled seeing Mr Connolly. He was on his bed watching television. He was able to lean forward and wave at Mr Thomson. There were no concerns about Mr Connolly s welfare at that point – around 9.45pm on 5 July 2018. At 2145 hours on Thursday 05 July 2018 prison

officer Martin Thomson conducted a door check and body check, he approached the cell, 12Block D North. He opened the spy hole and noted Mr Connolly moving and then waving.

6 July 2018

[45] At 06.45 hours, the following day, Friday 06 July 2018, prisoner officer Philip Connolly began his working day and began to carry out a numbers check of all prisoners on the DNL. This involved opening the cell doors and counting the prisoners. The prisoners are expected to give a verbal response. Philip Connolly attended at the cell of Kevin Connolly. On opening the cell door Philip Connolly observed Kevin Connolly to be in bed and unresponsive.

[46] Philip Connolly shouted, "CODE BLUE" which is prison officer terminology for a prisoner having been found unresponsive without breath. John McDavitt and a fellow prison officer Alexander Gemmell attended to assist immediately, along with NHS Prison nurses Agnes Raphael and Amy Perrie.

[47] Kevin Connolly was then removed from the bottom bunk and placed on his back within the cell floor in order to allow access for the nurses to apply CPR. Agnes Raphael and Amy Perrie both NHS Nurses and John McDavitt rotated carrying out CPR. Amy Perrie requested a suction machine from the medical centre, and this was subsequently brought by Nurse Susan O'Neill. The suction machine was set up and those present continued to try to revive Mr Connolly rotating between doing compressions, suction and keeping his airways open. CPR continued until the arrival of the ambulance

technicians.

[48] Ambulance Technician Michelle Gordon received a call from the ambulance control room to attend at HMP Barlinnie at approximately 06.45 hours. She and her colleague Thomas McCallum arrived at HMP Barlinnie at approximately 06.50 hours and were escorted to Mr Connolly's cell. Michelle Gordon noted Kevin Connolly to be lying on the floor between the bed and the wall whilst three nurses were conducting CPR. Michelle Gordon and Thomas McCallum further noted post mortem staining on Mr Connolly's hand and on trying to move his hand identified early signs of rigor mortis. Both agreed resuscitation was no longer viable and they pronounced life extinct at 07.00 hours.

Pathology

Dr Marjorie Turner

[49] On 12 July 2018 at the Queen Elizabeth University Hospital, Glasgow, a post Mortem examination was carried out on Mr Connolly by Dr Marjorie Turner, a consultant forensic pathologist, employed by the University of Glasgow. Dr Turner performs between 400 and 500 post mortems per annum and has done so for the past 27 years. The Post Mortem report and toxicology report by Dr Alice Seywright, Forensic Toxicologist and a Neuropathological report by Professor Colin Smith, Consultant Neuropathologist were lodged with the court. The cause of death was recorded by Dr Marjorie Turner as 1a: Bronchopneumonia. The presence of bronchial pneumonia precludes SUDEP as a cause of death. Dr Turner stated that only in the absence of

pathological findings to explain death could SUDEP be considered. Here it could be excluded because bronchial pneumonia was so prevalent and was clearly the cause of death. It was put to Dr Turner that Mr Connolly was examined on 29 and 30 June, 2 and 3 July and no evidence of bronchial pneumonia was found. She said that the infection could "quite possibly" have developed after that.

Michael Johnston, Consultant in Emergency Medicine

[50] Mr Michael Johnston, a Consultant in Emergency Medicine for 25 years at Ninewells Hospital, Dundee and Perth Royal was asked to provide an opinion into the matters relating to the medical care received by Kevin Connolly at Hairmyres Hospital, Glasgow Royal Infirmary and within HMP Barlinnie prior to his death on 06 July 2018. In particular Mr Johnston was asked to focus on the care and treatment provided to Kevin Connolly in the period from 2 July 2018 to the time of his death on 6 July 2018. His report was lodged with the court and he spoke to its contents when he gave evidence before the Inquiry. Mr Johnston reviewed the medical records in relation to Kevin Connolly's admission to Hairmyres Hospital on 30 June 2018 which recorded that he had undergone a series of investigations including a blood test (which ruled out heart problems); a PERC score test (which ruled out pulmonary embolism); a cardiograph (which did not reveal concerning abnormalities); and a chest x-ray (which confirmed there was no evidence of focal abnormality). Mr Johnston found no evidence in the medical records that would suggest Mr Connolly was suffering from a chest infection/bronchopneumonia at that time. Mr Johnston noted that there was no history

of shortness of breath, cough or fever. Clinical examination of Mr Connolly's lungs did not reveal any signs that he had a chest infection or pneumonia.

[51] In relation to Mr Connolly's attendance at the Accident and Emergency Department of Glasgow Royal Infirmary on 02 July 2018, Mr Johnston found that Doctor Anya Wallace performed and satisfactorily documented her clinical assessment of Kevin Connolly at this time. An examination of Mr Connolly's chest was performed. There were no abnormal signs detected that would have led Doctor Wallace to suspect the presence of bronchopneumonia. Mr Connolly was discharged to HMP Barlinnie on 3 July 2018.

[52] Mr Johnston concluded from the medical records that there was no clinical evidence that Mr Connolly was suffering from bronchopneumonia at the time of his discharge from Hairmyres Hospital on 29 June 2018 or from Glasgow Royal Infirmary on 03 July 2018 or thereafter in the lead up to his death. Mr Johnston concluded that it was difficult to correlate the post-mortem findings of established early widespread pneumonia with Mr Connolly's presentation to health care staff on 30 June 2018 and 02 July 2018. Mr Johnston could find no clinical evidence that Mr Connolly was suffering from bronchopneumonia and, given there was no clinical indication of such a condition, it was understandable why no treatment was offered. Mr Johnston further concluded that the care offered and the actions of those involved in the medical treatment of Kevin Connolly were reasonable in all the circumstances. Mr Johnston did not consider that there were any further reasonable precautions that may have been taken whereby his death might have been avoided. He was unable to detect any defects

in the system of working that contributed to the death.

Conclusion

[53] Mr Connolly had engagements with the criminal justice system resulting in several periods of imprisonment in HM Prison Barlinnie. He was no stranger to the courts or to those in the prison system tasked to deal with him. At Hairmyres Hospital his stay in June 2018 was cut short because of his behaviour and he was discharged. He was due to be arrested and that decision was rescinded. Upon further review he was taken into police custody on the evening of 29 June 2018. In his several dealings thereafter with medical staff at Hairmyres Hospital (on two occasions), Glasgow Royal Infirmary and HMP Barlinnie no criticism can be made of those who dealt with Mr Connolly. At the time of his returns to hospitals, on the evening of 29 June 2018, 20 June 2018 and 2 July 2018 he was in lawful custody either under the auspices of police, prisoner escort or prison authorities. He was, therefore, subjected to detailed medical examinations over the course of those few days.

[54] In the week leading up to his death Mr Connolly was examined thoroughly on a number of occasions. Mr Johnson, the clinical expert having an overview of his care, found it difficult to explain the very clear and advanced signs of bronchopneumonia detected post-mortem. These findings were difficult to reconcile with the absence of any symptoms on examination over the dates and locations proximate to his death. There was no failure on the part of any individual or organisation that could be said to have led or contributed to Mr Connolly's death.

[55] The main purpose of the inquiry is to learn from any mistakes and to ensure that if there any errors or omissions detected – individually, systematically, organisationally or institutionally - they are not repeated. The absence of any clinical error leads the court to make the formal findings that it does. However, those determinations apart, I hope that the inquiry has served the important purpose of ensuring that all of the circumstances of Mr Connolly's dealings with the prison, medical and police authorities have been ventilated in public and in detail. Members of the Connolly family sat through all of the inquiry's proceedings and were able to view the proceedings remotely when the court moved on to the WebEx platform. They can be reassured that the Crown, representing the public interest, and their own solicitor have taken steps to ensure that every aspect of Mr Connolly's care was carefully analysed to ascertain whether there was any defect in any system or process that had caused or contributed to his death or could have prevented it.

[56] It only remains for me to conclude by offering my condolences to Mr Connolly's family upon his death – a sentiment joined in by all representatives before the inquiry.