SHERIFFDOM OF GLASGOW AND STRATHKELVIN AT GLASGOW

2013 FAI 4

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

DETERMINATION by SHERIFF JOHN NEIL MCCORMICK, ESQUIRE, following an Inquiry held at Glasgow between 15 and 19 October and between 27 and 30 November Two Thousand and TWELVE into the death of ALAN IRVINE.

GLASGOW, 30 January 2013.

In terms of section 6 of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976, the Sheriff, having considered the evidence and the submissions, FINDS AND DETERMINES:

(1) In terms of section 6(1)(a) of the said Act, Alan Irvine, date of birth, 18 March 1980, who resided latterly at 50 Warriston Street, Glasgow died at the Royal Infirmary, Glasgow on 22 August 2010 at 0435 hours.

(2) In terms of section 6(1)(b) of the said Act the cause of death was naphyrone lignocaine and cocaine intoxication.

(3) In terms of section 6(1)(c) of the said Act, there were no reasonable precautions whereby the death might have been avoided.

(4) In terms of section 6(1)(d) of the said Act, there were no defects in any system of working which contributed to the death.

(5) In terms of section 6(1)(e) of the Act, there were no other facts relevant to the circumstances of the death in respect of which any determination falls to be made.

SHERIFF

NOTE:

[1] The duty on a sheriff presiding at a Fatal Accident Inquiry is set out in section 6 of the Fatal Accident and Sudden Deaths Inquiry (Scotland) Act 1976 ("the Act"). The sheriff is to hear all the evidence and any subsequent submissions made on that evidence and then to make a Determination setting out the circumstances of the death of Alan Irvine under reference to the five considerations set out in section 6 insofar as they have been established to the satisfaction of the court. The sheriff's purpose and function within the confines of a Fatal Accident Inquiry are determined by section 6.

[2] In particular, the function of the sheriff at a Fatal Accident Inquiry is not to make a finding of fault or apportion blame between any persons who might have contributed to the accident. The Act does not empower the sheriff to do that.

[3] A Fatal Accident Inquiry is not a fault finding Inquiry. It is neither a civil proof nor a criminal trial. The standard of proof of the circumstances of the death is on the balance of probabilities. The onus rests on the Crown because, by virtue of section 1 of the Act, the duty of investigating those circumstances lies with the Crown.

[4] This Fatal Accident Inquiry was convened into the death of Alan Irvine, born 18 March 1980 who resided at 50 Warriston Street, Glasgow which occurred at the Royal Infirmary, Glasgow on 22 August 2010 at 0435 hours.

[5] The Fatal Accident Inquiry took place between 15 and 19 October and between 27 and 30 November 2012.

Parties to the Inquiry

[6] The procurator fiscal was represented by her depute, Ms K Potter. Mr D Cheyne, Advocate, appeared on behalf of the mother of the late Alan Irvine. Ms A Miller and Ms Ali appeared on behalf of the Chief Constable, Strathclyde Police and Mr A Gillies, appeared on behalf of Police Constables James Armstrong and Ainsley Robb.

Witnesses to the Inquiry

[7] The Inquiry heard evidence from the following witnesses:

1 Susan Irvine, mother of the deceased.
2 Patrick Peoples, friend of the deceased.
3 Stuart William Irvine, cousin of the deceased.
4 John Creggan, friend of the deceased.
5 John Paul Friel, friend of the deceased.
6 Stephanie McEwan, friend of the deceased.
7 Noel Paul, witness to an incident in the early hours of 22 August 2010, prior to the arrest of the deceased.
8 Scott Drennan, Security Guard.
9 Kevin O'Donnell, Steel Fabricator.
10 Police Constable James Armstrong.
11 Professor Richard Shepherd, Consultant Forensic Pathologist, The Royal Liverpool Hospital, Liverpool.
12 Police Constable Ainsley Robb.
13 Martin Samson, Ambulance Paramedic.

14 Police Constable Adam Richardson.
15 Barry Bryden, Train Driver (formerly Police Constable).
16 Stuart Rennie, Police Custody and Security Officer, Baird Street, Police Office.
17 Dr Gail Cooper, Forensic Toxicologist, University of Glasgow.

Witnesses led on behalf of the family

18 Norman Alexander, Retired Police Inspector.
19 Professor Anthony Busuttil OBE, Regis Professor of Forensic Medicine, Emeritus, Edinburgh University.

Witness led on behalf of Strathclyde Police

20 Mr Patrick Thomas Grant, Consultant in Emergency Medicine, Western Infirmary, Glasgow

Background

[8] With the exception of parts of the expert evidence, I do not propose to go through the evidence of each witness individually. There is no need because much of the evidence is not in dispute. I am grateful to the parties for the agreement of a detailed Joint Minute. It is important to for me to note the events leading up to the death of Mr Irvine in some detail because the conclusions of Professor Shepherd and Mr Grant differ from those of Professor Busuttil. The difference in opinion stems from a misunderstanding by Professor Busuttil of the events leading up to the death of Mr Irvine. Accordingly, these events must be put in context.

[9] Parties to the Inquiry focussed on whether in the early hours of the morning of 22 August 2010, Mr Irvine evidenced excited delirium syndrome and, if so, whether Police Constables Ainsley Robb and James Armstrong ought to have identified the possibility that Mr Irvine was suffering from excited delirium syndrome and taken him to hospital.

[10] It is convenient to divide the evidence into sections commencing with what had occurred prior to the involvement of the police and the events which took place when Mr Irvine came to the attention of police officers. I will then deal with the topics of post-mortem, toxicology and the expert evidence relating to excited delirium syndrome before noting my conclusions.

Events prior to police involvement.

[11] Mr Irvine was 30 years old when he died. For a period of approximately ten years prior to his death Mr Irvine had regularly ingested cocaine. Mr Irvine also imbibed alcohol.

[12] The evening of 21 August 2010 was no different in that regard. I heard evidence from various sources that Mr Irvine was ingesting cocaine regularly throughout the evening and into the early hours of 22 August 2010. He did so within the Centaur Bar, Easterhouse, and subsequently at the Savoy Nightclub, Sauchiehall Street, Glasgow.

[13] Evidence suggests that the cocaine ingested by Mr Irvine on the night he died may have been adulterated. In particular, his cousin, Stuart Irvine, gave evidence that when taking the cocaine offered to him by Alan Irvine, Stuart Irvine felt ill. Stuart Irvine recalled his cousin looking through the window of the Centaur Bar in Easterhouse and hallucinating that people were jumping over a motor vehicle. The two cousins had a laugh at the notion and continued their evening.

[14] Other witnesses were suspect of the cocaine. It looked somewhat darker than they had experienced in the past and smelt like "cat's piss". They were suspicious of it. Although the suspicions were mentioned to Alan Irvine, he paid no attention.

[15] At approximately 0245 hours on 22 August 2010, Mr Irvine can be viewed on CCTV leaving the Savoy Nightclub. He appears to be alone. He is subsequently caught on CCTV running down West Nile Street, across its junction with Sauchiehall Street.

[16] Mr Noel Paul gave evidence that he had been in his car stopped at traffic lights at the junction between West Nile Street and West Regent Street, Glasgow. He had heard a man running down West Nile Street shouting "They're chasing me. They're chasing me. They're going to kill me. They're going to kill me."

[17] The man (Alan Irvine) jumped over the bonnet of Mr Paul's car. He fell between two vehicles, namely, Mr Paul's vehicle and a private hire taxi which was stationary to the right hand side of Mr Paul's vehicle.

[18] Mr Irvine tried to open the door of the taxi which then drove off through the red light. Mr Irvine then got to his feet and ran in the direction of Nelson Mandela Place.

[19] Mr Paul retraced the direction from which Alan Irvine had run. He could not see anyone in pursuit of Mr Irvine. Mr Paul decided to go home. In doing so he came across police officers trying to restrain Mr Irvine in Chisholm Street, Glasgow.

[20] Mr Paul parked his vehicle, alighted and approached Mr Irvine who was on the ground being restrained by police officers. At that stage Mr Paul recognised Alan Irvine as the same person whom Mr Paul had seen jump over his vehicle earlier.

[21] Mr Paul recollected Mr Irvine saying "They're going to kill me. They're going to kill me." He was rocking his head as he said these words.

[22] When asked whether Mr Irvine was resisting arrest by flailing his legs, Mr Paul said that Mr Irvine was simply lying still. The video evidence contradicted this. To that extent, Mr Paul's evidence was unreliable.

[23] However, for the purposes of this Determination, Mr Paul's evidence is important background. Significantly Mr Paul did not speak to Police Constables Armstrong and Robb to advise them of the previous incident involving Mr Irvine jumping over his motor vehicle. Accordingly, police officers were unaware of the earlier incident nor that Mr Irvine's concern that he was being chased may have been an hallucination.

Events after the involvement of the police.

[24] Police Constable Ainsley Robb, aged 29, with seven years police service and Police Constable James Armstrong, aged 31, with 3½ years' service, were on uniform mobile patrol in a marked police van with a cell to its rear. The cell is accessed by opening the rear double doors of the van within which the cell is enclosed by metal and perspex.

[25] At about 0303 hours on 22 August 2010 a motor vehicle halted beside the police vehicle being driven by Police Constable Ainsley Robb within which Police Constable James Armstrong was a passenger. The driver of the other vehicle had two passengers, namely the driver's son who was sitting in the front passenger seat and Alan Irvine who was in the back of the vehicle.

[26] The driver had pulled alongside the police vehicle. The driver spoke to Police Constable Ainsley Robb to report that a person (Alan Irvine) had entered the rear of his vehicle uninvited.

[27] Police Constable Robb asked the driver to park in Chisholm Street which he did.

[28] Police Constable Robb halted her police vehicle behind the other vehicle in Chisholm Street.

[29] Police Constables Robb and Armstrong alighted their police vehicle. Police Constable Robb spoke to Alan Irvine. Alan Irvine said that people were chasing him and had wanted to stab him. Alan Irvine was asked to get out of the car which he did. He was ushered towards a wall where he stood.

[30] At the wall, Alan Irvine gave his personal details to Police Constable Armstrong while Police Constable Robb spoke to the driver.

[31] The driver was understandably concerned about the effect that the incident may have had on his autistic son. The driver did not wish to make a formal complaint and was anxious to leave. He was allowed to go.

[32] This left the police officers with Mr Irvine. The police officers sought further details from Mr Irvine in relation to his allegation that he had been chased or threatened by others. Such allegations are not uncommon in Glasgow City Centre. The officers tried to calm him down.

[33] Mr Irvine appeared agitated. He walked towards the police van saying that he was going to place himself into the van. He shouted "Fucking arrest me. Put me in the van" or words to that effect. He then sat on the edge of the front passenger seat of the police van with the front passenger door open.

[34] Mr Irvine was arrested. A struggle ensued whilst police officers attempted to place handcuffs on Mr Irvine. Police Constable Robb managed to place one handcuff on a wrist but had difficulty securing the handcuff on Mr Irvine's other wrist. Both officers and Mr Irvine

struggled to the ground. A security guard (Scott Drennan) from a local establishment assisted police officers in restraining Mr Irvine and placing him into the cell within the police van at approximately 0314 hours.

[35] At this point it is relevant to mention that Mr Irvine had been partially compliant with the instructions of police officers. He had removed himself from the vehicle. He had stood by the wall. He had provided his personal details. Failure to comply with instruction can be a sign or symptom of excited delirium syndrome.

[36] To the police officers, the only unusual element of this encounter with Mr Irvine had been the action of Mr Irvine entering the passenger side of the police motor vehicle and his stated desire to be arrested. Even then the police officers were not particularly concerned by Mr Irvine's desire to be arrested which, although unusual, is not unheard of.

[37] In addition, Mr Irvine's attire (shirt and trousers) was appropriate for an August night. There was no attempt by Mr Irvine to remove his clothing. Inappropriate clothing can be a sign or symptom of excited delirium syndrome.

[38] Although Mr Irvine was sweating, this was consistent with his assertion that he had been chased. Heavy sweating can be a sign or symptom of excited delirium syndrome.

[39] Mr Irvine had struggled with Police Constables Armstrong and Robb who were assisted in restraining Mr Irvine by Scott Drennan. Mr Irvine was restrained using handcuffs to the front of his body and a Velcro leg restraint. Officers did not feel it necessary to use additional measures, such as a baton or gas. Pain tolerance and unusual strength can be signs or symptoms of excited delirium syndrome.

[40] Ordinarily Police Constables Robb and Armstrong would have conveyed Mr Irvine to Stewart Police Office. That night Stewart Street Police Office was at capacity. Accordingly, they were instructed to take Mr Irvine to Baird Street Police Office. Mr Irvine was conveyed within the cell of the police vehicle to Baird Street. The journey time was a matter of approximately five minutes. During the journey both constables heard Mr Irvine shout and swear. He was also kicking against the cell.

[41] The Charge Bar at Baird Street Police Office was occupied. Accordingly, Mr Irvine was kept waiting within the cell of the van pending being processed at the Charge Bar.

[42] The rear doors of the police van were opened for Mr Irvine's comfort and for observations to be maintained on Mr Irvine. Mr Irvine was observed to bite the plastic cover of the handcuffs a sound which was described as similar to "teeth snapping". The Velcro leg restraints had become undone.

[43] A decision was made to remove Mr Irvine from the police vehicle and place handcuffs to the rear of his body due to the risk of Mr Irvine choking on pieces of plastic. This process required the assistance of two additional police officers. Mr Irvine continued to struggle during this process. He kicked a police officer. Mr Irvine was handcuffed to the rear using a double handcuff arrangement where two sets of handcuffs were used. One set was attached to Mr Irvine's left wrist with the second set being attached to his right wrist. The two sets were linked together at the rear of Mr Irvine. This afforded Mr Irvine an ease of breathing and less restriction than a single set of handcuffs would have permitted.

[44] A Mr Stuart Rennie, a civilian police custody security officer, came out to advise officers that the custody suite was almost ready to process those waiting. He saw Mr Irvine shouting

and swearing and kicking the walls of the police van. This was not unusual and Mr Rennie described Mr Irvine as "an angry drunk man".

[45] Mr Rennie had received first aid training. He recollected viewing a video showing excited delirium syndrome. In his opinion Mr Irvine was not suffering from excited delirium syndrome although it must be borne in mind that Mr Rennie was not aware either of the background or of the incident involving Mr Irvine biting the handcuffs which had taken place moments beforehand.

[46] Mr Rennie re-entered the custody suite, returning after approximately ten minutes to report that the custody suite was then ready to receive further prisoners. When talking to PC Robb in the yard he noticed Alan Irvine slide down the back wall of the cage. Mr Irvine was removed from the vehicle. Mr Rennie described Mr Irvine as not being fully conscious. Mr Irvine was breathing. Mr Rennie performed a knuckle rub to provoke a response but it was of no effect. PC Robb performed a further pain check which provoked a murmur of a response from Mr Irvine.

[47] It was decided to summon an ambulance via a 999 call made at 0345 hours. The ambulance arrived at 0349 hours.

[48] Before the arrival of the ambulance the handcuffs had been removed and cardiopulmonary resuscitation (CPR) was carried out by Mr Rennie and a colleague, Scott Bradley. Mr Irvine was taken to the Glasgow Royal Infirmary by ambulance. CPR was carried out until life was pronounced extinct at Glasgow Royal Infirmary at 0435 hours.

Post-mortem

[49] A port-mortem examination was conducted by Doctors Julie McAdam and Julia Bell, both Forensic Pathologists, on 22 August 2010 at 1630 hours within the City Mortuary, Glasgow. Doctors McAdam and Bell prepared the post-mortem report dated 4 November 2010 which is referred to in the Joint Minute. Within the terms of the report Doctors McAdam and Bell identified a number of injuries on Mr Irvine's body which would be in keeping with the circumstances surrounding his death.

[50] There was no evidence that those injuries would have caused or contributed to the death. Similarly, there was no evidence of any disease process which would have caused or contributed to his death. Mr Irvine's heart was described as "entirely normal". Having regard to the toxicology results Doctors McAdam and Bell conclude that the sudden nature of Mr Irvine's death is consistent with a fatal cardiac arrhythmia related to stimulant use. They conclude that the cause of death was naphyrone, lignocaine and cocaine intoxication.

Toxicology

[51] Dr Gail Cooper, Senior Lecturer and Forensic Toxicologist with the University of Glasgow spoke to her report, dated 8 October 2010 within which she reported that a sample of Mr Irvine's hair had been analysed for amphetamines and cocaine and samples of blood and urine were analysed for alcohol, drugs of abuse, prescription drugs, gases and naphyrone.

[52] Cocaine and Benzoylecgonine were present in the hair samples. It was not possible to determine the frequency or period of time over which these drugs had been consumed nor the quantity of the drugs.

[53] Low concentrations of alcohol were found in blood and urine.

[54] A low concentration of cocaine was found in the preserved blood sample. Dr Cooper explained that cocaine can metabolise quickly within the body. Accordingly, all that can be said with certainty is that Mr Irvine had ingested cocaine prior to his death.

[55] A high concentration of lignocaine (18 mg/L) was found within Mr Irvine's blood. Lignocaine can be used in hospitals for resuscitation purposes. There is no suggestion that it was used for that purpose here. Lignocaine can also be found as an adulterant in cocaine and "legal highs". Naphyrone (1.6 mg/L) was also found in Mr Irvine's blood and (2.1 mg/L) in his urine. Naphyrone is a stimulant producing "cocaine like" effects but with a higher potency than cocaine. Dr Cooper classified the level of naphyrone found here as high and considered it to be a significant risk to life.

[56] The overall effect of taking such a combination of drugs is greater than the separate effect that each drug might have on the body.

[57] Two further effects on Mr Irvine's body are worthy of mention.

[58] Firstly, there was a hiatus of approximately twelve hours between the time of death (04:35) and the post-mortem examination (16:30) on 22 August when the samples were taken. The body can continue to breakdown cocaine for a short period after death.

[59] Secondly, I heard evidence from Professor Anthony Busuttil and Mr Patrick Grant that although it is not noted specifically in the medical records that Mr Irvine received intravenous fluids during his resuscitation, he clearly had (parties had agreed this at paragraph (11) of the Joint Minute). There are references within the medical notes to fluids and a photograph shows an empty one litre bag of intravenous fluid beside Mr Irvine. Both Professor Busuttil and Mr

Grant concluded that the level of drugs within the body would have been diluted by this intravenous fluid.

[60] Taking these two effects together, it is not unreasonable to assume that the concentrations of the drugs identified within the toxicology report prepared by Dr Cooper would have been greater at, or shortly before, death.

EXCITED DELIRIUM SYNDROME – THE EXPERT EVIDENCE

Professor Richard Shepherd

[61] I heard evidence from Professor Richard Shepherd, Consultant Forensic Pathologist, Visiting Professor, City University, London and Honorary Consultant, Royal Liverpool Hospital. Professor Shepherd spoke to his report, dated 1 October 2012 within which, at Appendix A, Professor Shepherd lists the forty eight reports, statements and productions which had been provided to him. These productions included the opinion of Professor Busuttil and the opinion of Mr Grant. The documentation also included witness statements including the statements of Police Constables Armstrong and Robb and the statement of Mr Noel Paul and Mr Scott Drennan. Professor Shepherd had sight of statements of witnesses many of whom did not give evidence before me.

[62] In a detailed and considered report, Professor Shepherd concludes that Mr Irvine did not exhibit the criteria for excited delirium syndrome.

[63] Professor Shepherd recognises that the term "excited delirium syndrome" is not universally accepted. He referred to a "White Paper on Excited Delirium Syndrome" produced by the American College of Emergency Physicians in September 2009 which identified

ten features of excited delirium syndrome. Professor Shepherd emphasised that not all features would occur in every case. The ten features are: (i) pain tolerance; (ii) increased respiratory rate; (iii) sweating; (iv) agitation; (v) hyperthermia; (vi) non-compliance with instructions; (vii) lack of tiring; (viii) unusual strength; (ix) inappropriate clothing; and (x) attraction to glass/mirrors.

[64] It is a comparison of the circumstances outlined in the statements of Police Constables Armstrong and Robb and Mr Scott Drennan against the list of these features which caused Professor Shepherd to conclude that the criteria for excited delirium syndrome does not exist in this case.

[65] Professor Shepherd agrees with Dr Julie McAdam and Dr Julia Bell, Forensic Pathologists, that the cause of death was naphyrone, lignocaine and cocaine intoxication.

Mr Patrick Thomas Grant

[66] Mr Patrick Grant, Consultant in Emergency Medicine, Western Infirmary, Glasgow spoke to the terms of his report dated 19 June 2012. He had been provided with much of the information which was before the Inquiry for the purposes of preparing his report. Mr Grant noted that the co-ingestion of alcohol with cocaine increases the risk of sudden death. In addition, the concentration of lignocaine was very significant. The source of the lignocaine was most likely to be from the street cocaine which Mr Irvine had ingested. There is no evidence that the lignocaine was administered either by the ambulance service or hospital personnel as part of their resuscitative efforts.

[67] Mr Grant gave evidence that in many cases a diagnostic label can be applied only in retrospect. Those treating patients are unlikely to conclude that, on presentation to an accident and emergency department, a particular patient has excited delirium syndrome. A syndrome is a collection of signs and symptoms. The number of signs and symptoms might, in retrospect, inform a diagnosis of excited delirium syndrome but the symptoms themselves would be treated without necessarily waiting for a diagnosis of excited delirium syndrome. Treatment would involve cooling the patient and sedation. In this case it is unlikely to have changed the ultimate outcome.

[68] Mr Grant observed that it was likely that Mr Irvine had exhibited some form of delirium. Indeed many individuals arrested in similar circumstances, and under the influence of alcohol and/or drugs, would have behaved in a similar fashion. Mr Irvine's behaviour would have appeared relatively common place. There was no indication that he should have been taken directly to hospital rather than to a police station. On the other hand, when Mr Irvine's condition deteriorated, police officers had taken prompt and appropriate action.

Norman Alexander

[69] Norman Alexander is a retired police officer having achieved the rank of inspector. He spoke to his fifteen page report dated August 2011 and was described as an expert in his field.

[70] I am not persuaded that Mr Alexander is an expert in excited delirium syndrome. I have no doubt that he had some knowledge of excited delirium syndrome and that he has had a professional interest in the area.

[71] Mr Alexander is not medically qualified. He had viewed a Canadian video some years beforehand in relation to excited delirium syndrome and he had prepared a condensed version of the video for constabularies in the United Kingdom. In addition, he had read articles on excited delirium syndrome and had researched the syndrome on the internet.

[72] At page 12 in his report, Mr Alexander describes excited delirium as "characterised by extreme violence often accompanied by bizarre, manic and purposeless behaviour, and extreme strength". However, these are only a number of the symptoms which medical experts have ascribed to the syndrome.

[73] The factors identified by Mr Alexander were not as comprehensive as those described by Professor Shepherd, Mr Grant or Professor Busuttil.

[74] In relation to Mr Alexander's evidence, I do not propose to reiterate it in detail. It is sufficient for me to record that Mr Alexander is aware that police officers are trained in identifying excited delirium syndrome albeit that greater emphasis should be placed on this topic in his opinion.

[75] Mr Alexander described the arrest of Mr Irvine as a textbook arrest and in his report that Mr Irvine's actions "to the point where he arrived at the police custody suite can perhaps be said to be fairly typical of many detainees" (page 14). That is a telling statement.

[76] It is difficult to reconcile this statement with Mr Alexander's conclusion (at page 15) that: "consideration should have been given to the possibility of…excited delirium affecting Mr Irvine due to his restraints and body position within the vehicle cell and due to his physiological appearance, symptoms and actions" (my emphasis). Mr Alexander found it difficult to explain why police officers dealing with Mr Irvine would have been able to identify

excited delirium syndrome from his physiological appearance or symptoms before the point that Mr Irvine bit the plastic cover of his handcuffs. As for his body position, all parties had agreed that positional asphyxia was not a factor in Mr Irvine's death.

[77] By the stage Mr Irvine was biting the handcuffs, he had reached the yard of Baird Street Police Station, the rear doors had been open and his welfare was being monitored by police officers. Mr Irvine's condition deteriorated so rapidly outside Baird Street Police Station that police officers did what they could by way of summoning an ambulance whilst maintaining CPR. An alternative might have been for police officers to take Mr Irvine to hospital from Baird Street Police Station. It would have been difficult to maintain CPR in the rear of a police vehicle. The police officers followed the prudent course by summoning an ambulance.

[78] To conclude, I have no difficulty accepting Mr Alexander as a capable and experienced police officer. I do not consider that he is sufficiently experienced in the area of excited delirium syndrome so as to provide an expert opinion on the scenario to which Police Constables Alexander and Robb were exposed on 22 August 2010.

Professor Anthony Busuttil

[79] Professor Busuttil prepared a medical report dated 5 July 2011 having merely been provided with a copy of the Petition and a copy of the post-mortem report by Dr Julie McAdam and Dr Julia Bell, dated 4 October 2010.

[80] Professor Busuttil divided the characteristics of excited delirium syndrome into three broad categories, psychological, physiologic and physical.

[81] In large measure Professor Busuttil relied on the narrative within the heading "background circumstances" as outlined in the post-mortem report. In my opinion, Professor Busuttil placed too great a weight on the narrative contained within the post-mortem report. He did not have the wealth of information provided to Professor Shepherd or Mr Grant.

[82] The premise on which Professor Busuttil's report is founded does not reflect the evidence the court has heard.

[83] For example, in the narrative of the post-mortem report on which Professor Busuttil relies for the background to his opinion, it is said "when attempting to handcuff Mr Irvine, police found him resistant and struggling, and he also appeared to be paranoid possibly hallucinating, (appearing to avoid 'imaginary blow') and sweating heavily".

[84] Whilst it is correct to say that police found Mr Irvine resistant and struggling, it is not correct to say that he appeared to the police to be paranoid, possibly hallucinating or appearing to avoid an imaginary blow. He had told the police that he had been chased. He had sought refuge in a passing car so as to escape the chase. The police officers had no reason to suspect that this was an hallucination.

[85] Similarly, although Mr Irvine is said to have been "sweating heavily" this would have been consistent with him having been chased on an August night. In fact, we now know from CCTV evidence that Mr Irvine had been running albeit that there is no evidence that he had been chased.

[86] It may well have been that Mr Irvine was hallucinating. The implication of the post-mortem report is that this was a fact known to the police. It was not.

[87] Indeed, until Mr Irvine started biting the plastic cover off the handcuffs shortly before his collapse at Baird St Police Station, this had been a routine arrest of a person under the influence of alcohol, drugs or both in the early hours of a Sunday morning in Glasgow's city centre. Until that point the scenario could be described as unremarkable.

Conclusion

[88] I commence by distinguishing the evidence of Professor Busuttil from the evidence of Professor Shepherd and Mr Grant.

[89] Professor Busuttil concluded that "there should be **no doubt** that this man was showing the classic features of excited or agitated delirium" - emphasis as it appears in his report. That conclusion goes too far. Indeed, I have a concern at the level of certainty expressed by Professor Busuttil having regard to the comparative paucity of information available to him, namely, a letter of instruction, a copy of the petition and a copy of the post-mortem report produced on behalf of the procurator fiscal.

[90] By contrast, Professor Shepherd was provided with a letter of instruction and forty eight items including statements, reports, medical records and CCTV. Mr Grant was provided with a letter of instruction and eighteen statements, reports etc. Professor Shepherd and Mr Grant both conclude that Mr Irvine did not suffer from excited delirium syndrome at the time of his demise. In reaching their conclusions, both Professor Shepherd and Mr Grant took into account not only the behaviour of Mr Irvine in biting his handcuffs but also the earlier arrest and that Mr Irvine had been running, when the evidence suggests that Mr Irvine was hallucinating that he was being chased.

[91] The opinions of Professor Shepherd and Mr Grant are rooted in a firmer understanding of the events in the hours before the demise of Mr Irvine. They are well reasoned and authoritative. Although the existence of excited delirium syndrome is not universally accepted, for the purposes of the Inquiry its existence was not disputed. A syndrome is a collection of signs and symptoms. If sufficient signs and symptoms are known to exist, they may be classified together as a syndrome. I accept the conclusion of Professor Shepherd and Mr Grant that Mr Irvine did not exhibit the signs of excited delirium syndrome.

[92] If, as I have determined, Mr Irvine was not suffering from excited delirium syndrome, it follows that Police Constables Robb and Alexander cannot be criticised in failing to identify a syndrome which was not present. Mr Irvine may well have been hallucinating but that symptom was not evident to the police.

[93] Police Constables Alexander and Robb were faced with an all too common situation in the early hours of a Sunday morning on the streets of Glasgow. Mr Irvine had sought refuge from those he said were chasing him. Police officers were not to know the veracity of that claim. Thereafter Mr Irvine resisted arrested. A member of the public, Mr Scott Drennan, assisted the police officers in their arrest of Mr Irvine. Mr Irvine was restrained using handcuffs and Velcro leg restraints. Mr Irvine was not subdued by baton or spray.

[94] Mr Irvine remained disruptive in the police vehicle during the short journey from Chisholm Street, Glasgow to Baird Street Police Office.

[95] As Baird Street Police Office was busy Mr Irvine was kept waiting in the rear of the police vehicle. During this period the rear van doors were opened for air to circulate and for Mr Irvine to be observed. Mr Irvine began biting the plastic cover off his handcuffs – an action

which was exceptional. At that point Mr Irvine was removed and loosely handcuffed to the rear in the manner described at paragraph [43] above. Moments later his condition deteriorated.

[96] I agree with the opinions of Doctors Julie McAdam and Julia Bell, Forensic Pathologists that the cause of death was naphyrone, lignocaine and cocaine intoxication. When taken in combination Mr Irvine suffered the effects of excessive drug use, including hallucinations. Had Mr Paul told police officers not only that he had seen Mr Irvine attempt to take refuge in a taxi but also that he had heard Mr Irvine shout that he was being chased at a time when he (Mr Paul) could see no evidence of that; perhaps this might have alerted Police Constables Armstrong and Robb to the possibility that Mr Irvine was hallucinating. As it was, the police officers were unaware of that information.

[97] The driver of the car into which Mr Irvine had entered uninvited did not wish to pursue a complaint. Accordingly, that driver was allowed to leave. Mr Irvine's behaviour became disruptive as police officers were taking personal details from him. Until then he had complied with their instructions.

[98] The Procurator Fiscal referred me to the evidence of Professor Shepherd to the effect that qualified medical staff should be on hand at police station custody suites to assess arrivals and invited me to make such a determination. That proposal is superficially attractive but I do not consider that I can make such a determination or recommendation within the confines of this Inquiry. I do not know whether such a suggestion is feasible (in terms of staffing, accommodation or funding) or even beneficial in the sense that it might encourage delay by officers taking those requiring hospitalisation to the police station for initial assessment.

Furthermore, there is no evidence to show that such a proposal would have made a difference here. Mr Irvine was awaiting entry to the custody suite, which was full, when his condition deteriorated. However as the Chief Constable was a party to the Inquiry and the suggestion was moved by the Procurator Fiscal, I hope that consideration will be given to such a proposal which is, I was advised, in place elsewhere.

[99] On behalf of the family of Mr Irvine, it was suggested that I might determine that police officers should in future ask arrested persons whether he or she has ingested drugs. In making this submission, counsel accepted that the chances of receiving an honest answer might be slim. It is doubtful whether, in the scenario facing police officers in the early hours of 22 August 2010, they would have received a coherent, honest or reliable answer. Moreover, there was little opportunity to make such enquiry and no need. I say this because it was whilst police officers were taking Mr Irvine's personal details as a possible victim of a crime – not as a suspect - that his behaviour deteriorated. It rapidly became clear to those police officers that Mr Irvine had imbibed alcohol or ingested drugs or both.

[100] More generally, it is unlikely that a suspect would volunteer an accurate or a reliable answer to the police. Accordingly, I am not prepared to make such a determination.

[101] It was also suggested that I may wish to comment on the necessity of enhanced training in relation to drug intoxication focusing on the dangers to cardiac systems and other symptomology. Again, I cannot accede to this request. Police Constables Armstrong and Robb were aware of excited delirium syndrome as was the civilian police custody security officer, Stuart Rennie.

[102] I do not consider that it would be appropriate for me to comment on either the topics covered during training or on the depth of information given to police officers in relation to a particular symptomology of ingesting a given substance.

[103] Such issues are for those who train police officers to provide them with the range of skills needed to fulfil their important role in society. Had Police Constables Armstrong and Robb identified Mr Irvine as requiring hospitalization, I have no doubt that they would have taken Mr Irvine to hospital. Indeed, they passed the Glasgow Royal Infirmary en route to Baird Street Police Office. Police officers are trained to take those requiring medical treatment to hospital or to summon assistance when necessary. That is what happened here as soon as Mr Irvine's condition deteriorated.

[104] On behalf of Police Constables Armstrong and Robb, I was invited to consider a determination under section 6(1)(e) that the training of police officers and custody security staff should be kept under review. Again, I decline to do so. There was no evidence before me to suggest that such training is not kept under review. Nor did I find that the training of, nor the actions of, the police officers or the civilian custody security officer were found wanting. Indeed, Police Constable Robb had re-qualified on the Strathclyde Police Emergency Life Support Training course during October 2009 and Police Constable Armstrong in February 2010 (Joint Minute, paragraph 15).

[105] Lamentably Mr Irvine succumbed to the effects of ingesting large quantities of illegal adulterated drugs. It is the cumulative effect of naphyrone, lignocaine and cocaine intoxication which caused Alan Irvine's death.

[106] Before concluding, I wish to record that the evidence suggests that Alan Irvine had many friends and was a much loved family member. Unfortunately, he had a weakness for drugs and on the evening of 21 August through to early hours of 22 August 2010, Mr Irvine consumed a lethal combination of drugs. Others suspected that the drugs consumed by Mr Irvine had been adulterated. I do not know whether Mr Irvine realised this but carried on regardless or whether he was unaware that the drugs may have been adulterated.

[107] Mr Irvine's family attended each day listening intently to evidence which must, at times, have been difficult to hear. Mr Irvine was described variously as the life and soul of a party and having lived a life at a hundred miles per hour. I have no doubt that he will be missed by his friends and family. I send my condolences to them for their loss.

SHERIFF