INQUIRY UNDER THE FATAL ACCIDENTS AND INQUIRY (SCOTLAND) ACT INTO THE SUDDEN DEATH OF SCOTT CURRIE

SHERIFFDOM OF GRAMPIAN, HIGHLAND AND ISLANDS AT INVERNESS

Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976

Inquiry into the circumstances of the death of Scott Currie

Determination

by

Sheriff Principal Sir Stephen S T Young Bt QC

Inverness, 17th January 2006

In terms of the undernoted sub-sections of section 6(1) of the Fatal Accidents and Sudden Deaths Inquiries (Scotland) Act 1976 the sheriff principal determines as follows:-

Section 6(1)(a)

1. The late Scott Currie (date of birth 10 August 1973) died at H M Prison, Porterfield, Inverness shortly before 10.05 am on 20 September 2004.

Section 6(1)(b)

2. The cause of Mr Currie's death was suicide by hanging.

Section 6(1)(e)

3. On 26 November 2003 Mr Currie was driving home to Inverness from Aberdeen when his car was involved in a collision with another car. As a result of the accident he sustained significant physical injuries including, in short, fractures to his right arm, pelvis and left leg. He was taken initially to Aberdeen Royal Infirmary and subsequently transferred to Raigmore Hospital, Inverness, on 23 December 2003. He was discharged from Raigmore Hospital on 31 January 2004.

4. The adverse physical consequences of the accident remained with Mr Currie following his discharge from hospital. In particular, his left leg was shorter than his right leg so that he required a heel raise on his left side to make the lengths of his legs more or less equal. Crown production 4 is a report prepared by Mr Sean Kelly, a

consultant orthopaedic surgeon, on the injuries sustained by Mr Currie based on (a) his examination of Mr Currie on 24 June 2004 and (b) Mr Currie's medical records.

5. Mr Currie first came into contact with the psychiatric services in Inverness in 1991 when he was admitted to hospital for a period of two months with a psychotic episode which attracted a diagnosis of manic depressive illness. Thereafter he was referred to the psychiatric services on a number of occasions over the succeeding years, all as detailed in the report dated 6 October 2004 which was submitted to the Mental Welfare Commission by Dr A G Hay, a consultant psychiatrist at New Craigs Hospital, Inverness (Crown production 14). In short, the common theme running through all these referrals was low mood and/or depression on the part of Mr Currie.

6. In due course Mr Currie was scheduled to appear before the High Court of Justiciary in Glasgow on 28 July 2004 on a charge of contravening section 1 of the Road Traffic Act 1988, namely causing the death by dangerous driving of three persons who had been in the car which had been in collision with his own car in the road traffic accident on 26 November 2003.

7. At the time of the accident Mr Currie was being treated with an anti-depressant drug, namely Venlafaxine. Following the accident this was stopped, but in about May 2004 he was prescribed a different anti-depressant drug, namely Mirtazapine, at the rate of 30mg daily. On 13 July 2004 Mr Currie consulted Dr J F Sweenie, a general practitioner and partner in the Crown Medical Practice in Inverness. He explained that his mood was low and that he had been feeling very stressed and had had difficulty sleeping. He appeared to Dr Sweenie to be very anxious and edgy. Dr Sweenie increased Mr Currie's daily prescription of Mirtazapine to 45mg to be taken at night to help his mood and also to help him sleep, Mirtazapine having a mildly sedative effect. He also prescribed some Temazepam, again to help Mr Currie sleep. In his note of this meeting Dr Sweenie referred to Mr Currie's impending court appearance and noted that he had been coping fairly well but had had a couple of black days when he had wanted to be admitted into New Craigs Hospital. At that time Mr Currie was registered as a patient with the Crown Medical Practice.

8. Late in the evening of 19 July 2004 Mr Currie called for medical assistance out of hours since his mood was low and he was feeling suicidal. Having spoken initially to a NHS24 nurse, he then went to Raigmore Hospital where the doctor who attended him turned out to be Dr I C Russell, another of the partners of the Crown Medical Practice. He sat hunched in a chair looking at the floor and told Dr Russell how black things seemed to him and that he felt life was not worth living. He spoke of his guilt at the deaths of the three persons who had been killed in the road traffic accident. Dr Russell tried to encourage him by saying that he had a wife who clearly cared for him and children who would find it devastating if anything happened to him. Dr Russell was struck by the fact that he seemed completely disinterested in this. Dr Russell decided that Mr Currie merited a psychiatric assessment and arranged for him to be referred the next morning to the Braeside Clinic at New Craigs Hospital. In his letter of referral dated 20 July 2004 (production 3/5 for Mrs Currie) he stated that despite Mirtazapine Mr Currie had been increasingly anxious and "with thoughts of hanging himself with a belt". Dr Russell went on to refer to Mr Currie's impending court appearance, his anxieties on this account, his loss of interest in his family and his wanting "to blot everything out". Dr Russell then wrote:-

The guilt of three lives lost bears heavily on him. Last night, at NessDoc, he told me, in tears, how "worthless" he feels and that he did not "deserve to live". He has not made any plans to kill himself but has had increasing thoughts about hanging himself. I am concerned that as he gets more stressed with his impending court case he may well try to kill himself. He certainly has enough risk factors.

9. In anticipation of his appearance before the High Court Mr Currie was interviewed in the presence of his wife on 22 July 2004 by Dr A Kennedy, a staff grade psychiatrist at New Craigs Hospital. Crown production 3 is a faxed copy of her report (which appears to have been dated 26 July 2004). Dr Kennedy recorded that Mr Currie was polite and co-operative throughout the interview and was fully aware of its nature and purpose and fully understood the charges against him and the implications thereof.

10. On page 2 of her report Dr Kennedy wrote, *inter alia*:-

On further questioning, Mr Currie fulfils the criteria for a diagnosis of bipolar affective disorder and I do not think that his mental state and mood will be entirely stable until such time as a mood stabiliser Epilim chrono (Sodium Valproate) is added to his medication regime. He is currently being treated with an anti-depressant - Mirtazapine - which was increased to the full adult dose of 45mg nocte only a few days ago, due to an ongoing low mood.

11. On page 3 of her report Dr Kennedy referred to the serious physical injuries suffered by Mr Currie as a result of the accident, including the shortening of his left leg. On page 4 she referred to Mr Currie having suffered mental health complications as a result of the accident including features suggestive of a post traumatic stress disorder, disturbing dreams and a tendency to be hyper vigilant. Dr Kennedy continued:-

These symptoms have now eased somewhat and he has presented with acute depression and suicidal ideation in recent months. He is extremely remorseful about the accident and that the passengers in the oncoming car lost their lives as a result of the accident. He has been irritable towards his wife and children and does not believe that he deserves to live. He has considered hanging himself but has not made active plans as such. As a direct result of the above-mentioned symptoms, Mr Currie's relationship with his wife has been somewhat strained at times and he has admitted to periods of irritability towards her and his children.

12. On page 4 of her report in a section headed "Mental State Examination" Dr Kennedy further wrote:-

Mr Currie was neatly dressed in casual clothing and was polite and friendly throughout the interview. His behaviour was appropriate and conversation flowed spontaneously. He maintained eye contact throughout our discussion.

At times he spoke in a soft voice and his speech was somewhat slow. The content was entirely appropriate and there was no evidence of thought disorder. He denies suffering from psychotic symptoms and there was no evidence of him suffering from any during our conversation.

Subjectively and objectively his mood was low. Today he denied suicidal ideation and informed me that he has come to terms with the possibility that he might be dealt a prison sentence for dangerous driving.

His memory and concentration were good.

In summary there was no evidence of psychosis. There was evidence of depression.

13. In anticipation of his appearance before the High Court a social enquiry report on Mr Currie dated 23 July 2004 was prepared by a social worker in Inverness (Crown production 2). This report was based on an interview between Mr Currie and the social worker which also took place on 22 July 2004. On page 2 of the report the author wrote, *inter alia*:-

He (Mr Currie) clearly accepted responsibility for the commission of this offence and informed me in numerous different ways during interview that he feels he does not deserve to be alive and indeed has gone as far as having planned a suicide by hanging with a belt. To date he has not followed this through. He clearly struggles with the fact that he is responsible for the death of three people and described himself as devastated because of this.

14. On page 3 of this report the author wrote, *inter alia* -

Mr Currie has been married for three and a half years and informs me that he and his wife have four children: a nine year old step-daughter and three children aged three, two and eight months. Partly as a result of this offence Mr Currie's marriage is undergoing some difficulty and the couple are receiving marriage guidance counselling, following what he describes as a breakdown in communication and the difficulty in dealing with his own mental health issues.

15. On page 5 of the report the author wrote, *inter alia*:-

Mr Currie had some insight into the fact that the court is likely to consider custody as the only realistic option given the consequences of the offence he has committed. He described this as "pretty scary", because of his fear of not knowing what to expect. Mr Currie added that his wife is struggling to deal with this as an option as the family seem to have limited support from extended family members and she would be left with four young children to care for on her own..... As noted there is nothing to preclude Mr Currie from a period of custody, although clearly his wife would struggle with the care of four young children as a lone parent. I have concerns around Mr Currie's mental health and his ability to cope with such a sentence and believe that any receiving prison would need to be informed of the risk of any self-harm which I believe could be high.

16. On 28 July 2004, having been convicted on the charge of contravening section 1 of the Road Traffic Act 1988, Mr Currie was sentenced at the High Court of Justiciary in Glasgow to four years imprisonment. He was admitted that same day to H M Prison, Barlinnie, Glasgow. This was the first time that he had been in custody.

17. A copy of the social enquiry report was not sent to the prison along with the warrant for Mr Currie's imprisonment. But a copy was sent to the prison soon afterwards following the intervention of his family. This was later sent to H M Prison, Inverness, but no-one there became aware of its significance until after Mr Currie's death.

18. Following his admission to H M Prison, Barlinnie, Mr Currie was seen by a practitioner nurse who recorded, *inter alia*, having had a long talk with him and that he had no intention of harming himself but did not know how he would cope with his sentence.

19. The following morning, 29 July 2004, Mr Currie made a brief telephone call to his wife in a distressed state advising her that he was not receiving his medication. Mrs Currie subsequently contacted the Scottish Prisoners' Families Helpline, a representative of which telephoned Mr Frank Gibbons, the Health Centre Manager, at H M Prison, Barlinnie, to report Mrs Currie's concerns about Mr Currie.

20. In 1998 the Scottish Prison Service introduced a revised Suicide Risk Management Strategy entitled "ACT and Care". Crown production 6 is a copy of this revised Strategy. In the introduction to this document the Chief Executive of the Scottish Prison Service wrote *inter alia*:-

The prevention of suicide in prison is **everyone's** business.

The SPS is committed to ensuring the best possible care for those within prisons, and **Care** is a key element of the SPS Mission Statement. The preservation of life and the care of others in distress is a responsibility which is fundamental to everything that we do in prison.

Whilst we have a duty of care to all prisoners, those who are "at risk" of self-harm or display suicidal behaviour have the greatest need and call on our time. We **all** have a responsibility, both individually and in teams, to offer support if we are concerned. **Care cannot be offered as a "one off" event; it has to be seen by prisoners and staff as at the centre of the way we work all of the time and taking the time to listen should always be our first response. We must not be challenging, aggressive, dismissive or judgmental.**

21. The key principles of the ACT to Care model are set out on page 1 of the document. These emphasise in particular that care of prisoners is central to all of the staff of the SPS do, that multi-disciplinary working and sharing of information are essential, that decisions about "at risk" prisoners should be made by teams, not individuals and that the aim is to create a context where prisoners feel safe to ask for help.

22. All the staff of the SPS receive training in the ACT to Care model. Crown production 5 is a copy of a staff handout about the model which was given to all members of staff. It again emphasised the importance of care of prisoners, their assessment, the context in which decisions were made and the importance of teamwork and sharing of information about a prisoner.

23. Since Mr Currie's death the Suicide Risk Management Strategy of the SPS has been further revised. In what follows references to the ACT to Care model are to the model which applied while Mr Currie was in prison.

24. The ACT procedure set out a number of steps to be taken where a prisoner had been identified as potentially at risk. These culminated in a case conference in which a decision would be taken whether the prisoner should be deemed high risk, low risk or no apparent risk. Depending upon this decision, a plan would, if need be, be made for the prisoner's future care.

25. Following the contact from the Scottish Prisoners Families' Helpline, Mr Gibbons interviewed Mr Currie. He found him quite distraught and worried about his family and how he would himself cope in prison. Mr Gibbons was also struck by the remorse which he felt about the road traffic accident which had led to his imprisonment. Mr Gibbons considered that this was quite genuine. He saw that Mr Currie was in a period of crisis and considered him to be at high risk of suicide. He therefore instituted the ACT procedure in respect of Mr Currie at 4.05pm that day. He recorded on the appropriate form that Mr Currie had stated to him that he would not harm himself but that "it might be the best thing".

26. Mr Gibbons also completed a pre-case conference nursing assessment on which he recorded that Mr Currie had stated: "I won't get through this" and said that he felt guilty about the road traffic accident which had led to his imprisonment and that he wished he had died in the accident. He also referred to the fact that his uncle had suffered from bipolar depression and had committed suicide.

27. The ensuing case conference was held at 4.30 pm on 29 July 2004. The decision of the conference was that Mr Currie was at high risk of suicide and the resulting care plan provided that he should be subject to observations four times an hour, that during the day he should have his ordinary clothing and that at night he should have anti-ligature clothing. It was provided that a further case conference should be held the following day, 30 July 2004. He spent that night in an anti-ligature cell.

28. The case conference on 30 July 2004 took place at 2.20 pm. Mr Currie had earlier received a visit at the prison from his wife and mother. He denied any thoughts of suicide/self-harm and the decision of the conference was that he should be assessed as being at low risk of suicide. The resulting care plan provided for him to be observed once every hour and that he should be relocated to D Hall in the prison. The possibility of his being moved to H M Prison, Inverness was also to be investigated.

29. Mr Currie was also seen on 30 July 2004 by Dr Brian Gillatt, a Specialist Registrar in Forensic Psychiatry. In a letter dated 5 August 2004 to the Mental Health Co-ordinator at H M Prison, Barlinnie, Dr Gillatt wrote *inter alia*:-

When I interviewed Mr Currie he reported that things were very much better since he had had contact with his family earlier that day. He described initially feeling anxious upon entering the prison then becoming extremely distressed. He reported that his mood was coming back to normal, his appetite and concentration were good and he

denied any suicidal ideation ..... He also informed me that he is likely to be transferred to a prison closer to home in the near future .....

30. At the case conference held at 11.00 am on 1 August 2004 Mr Currie was again assessed as being at low risk of suicide. It was recorded that he was coping better and was more happy since he was to be transferred to H M Prison, Inverness, where his family was. In the care plan it was provided that the hourly observations should continue and that the next case conference should be held on 3 August 2004.

31. On 2 August 2004 Mr Currie was transferred to H M Prison, Porterfield, Inverness. On admission he was seen by a practitioner nurse who recorded that he had no thoughts of self-harm or suicidal ideation at that time. It was noted too that the ACT procedure should continue.

32. At 8.55 am the following morning, 3 August 2004, Mr Currie was seen by Dr H I McNamara of the Crown Medical Practice (the partners of which at that time were under contract to provide medical services within H M Prison, Inverness). Dr McNamara noted that Mr Currie was distraught (which was not a word he used lightly). As in the case of all new admissions to the prison, Dr McNamara explored with Mr Currie any feelings that he might have of self-harm or suicide. Mr Currie denied having any such feelings. He also told Dr McNamara about the severe physical injuries which he had received as a result of the road traffic accident. But it did not appear to Dr McNamara that he was as concerned about these as about his emotional state and the circumstances of his imprisonment. He told Dr McNamara of his previous history of bipolar disorder and his involvement with Dr Kennedy. It was because of his evident distress that Dr McNamara spent more time with Mr Currie than he would normally have done with a new prisoner.

33. At 11.10 am on 3 August 2004 the first case conference under the ACT procedure was held at H M Prison, Inverness. It was again decided that he was at low risk of suicide. It was recorded that he came across as quite vulnerable and fairly naive and that the conference team felt that he would benefit from the support of ACT for another few days. The care plan provided that he should be located in a normal cell and subject to supervision every hour. It was arranged that the next case conference should take place on 8 August 2004.

34. At the time of Mr Currie's admission to H M Prison, Inverness, there was an arrangement in place whereby each prisoner was allocated a Personal Officer who was, broadly, responsible for keeping in touch with the prisoner at intervals of not more than a fortnight and checking up on his welfare. On the morning following his admission, Mr Currie was seen by an Induction Officer who arranged for him to make a telephone call to his family and for him to be referred to the Education Unit and the Chaplaincy within the prison. Mr Currie was also seen that day by his own family minister, the Rev Dr John Ross.

35. On 4 August 2004 Mr Currie attended at the prison health centre to ask if it would be all right for him to attend PT in the prison gym. The practitioner nurse who saw him was Ms Elaine Dingwall. She was a registered general nurse (not a registered mental health nurse). She agreed that he should do so. Mr Currie also informed Ms Dingwall that his mother was chasing up a foot block for his left shoe.

36. On 6 August 2004 Mr Currie was introduced to the Daycare Facility within the prison. This was a facility which offered prisoners who had been highlighted as having major issues such as problems settling into prison life help in dealing with these in an appropriate manner. Such prisoners were able to go to C Wing and talk to the staff there in a safe environment. They were also permitted to use the recreational facilities there. Mr Currie was seen for a total of fifty minutes that day by a prison officer, Mr Kevin Finlay.

37. On his admission to H M Prison, Inverness, Mr Currie had been allocated a cell within B Hall. This is the main hall for convicted prisoners within the prison. Mr Currie raised with Mr Finlay the possibility that he might be transferred to C Wing within the prison which was a small unit which contained approximately twelve prisoners. One of the cells there accommodated two prisoners but otherwise each prisoner had his own cell. All the prisoners spent less time locked up than prisoners in B Hall. While he was in the prison Mr Currie repeatedly asked residential and medical staff to be moved to C Wing. The prison at that time was overcrowded and in the normal course of events Mr Currie could not have expected to be moved out of B Hall during the first six months or so of his incarceration in the prison. There were many other prisoners who would also like to have been transferred to C Wing and there was no reason why Mr Currie should have been given preference over these other prisoners.

38. At the ACT case conference on 8 August 2004 Mr Currie was again assessed being at low risk of suicide. It was recorded that at that time he had no thoughts of self-harm/suicide and that he was dealing better with his sentence. He continued to be located in a normal cell and to be subject to observation on an hourly basis.

39. On 9 August 2004 Mr Currie had a further meeting in the Daycare Facility, this time with prison officer Mr Nigel Kelman. This meeting lasted three quarters of an hour and during it various matters were discussed to do with his welfare in prison. It was noted by Mr Kelman that he had good family contact and support.

40. Mr Currie had initially been placed in a cell with a heroin addict. But he had by this time been moved to another cell which he shared with Mr Brian Leith during the remainder of his sojourn in H M Prison, Inverness. Mr Leith (who was some twenty years older than Mr Currie) had been trained by the Samaritans as a listener to whom other prisoners in distress for one reason or another were able to speak on a confidential basis. He was able to offer considerable support and encouragement to Mr Currie in a variety of different ways, in particular by talking over with him his family circumstances, the remorse which he felt at the deaths of the three people who had been killed in the road traffic accident and the difficulties which he faced generally as a result of his imprisonment. As time went by, Mr Leith noticed that Mr Currie appeared to be coping better with the fact of his imprisonment and all that this entailed and that overall, despite various ups and downs, there was a marked improvement in his mood.

41. On one occasion not long after they had begun to share a cell Mr Leith awoke in the early hours of the morning to see Mr Currie apparently trying to fashion some kind of noose from the flex of his radio. He was attempting to put the flex through a dowel about six feet above the level of the floor above the toilet in the cell. Mr Leith

challenged him and told him to stop and go back to bed and they would discuss the incident in the morning. This they did, Mr Currie having complied with Mr Leith's request. Mr Currie asked him not to mention the matter to any of the prison staff lest he be put in an anti-ligature cell. Mr Leith agreed not to do so but told him that, if he did anything like that again, he (Mr Leith) would have no option but to tell a member of the staff. (He did however mention the matter in confidence to one of the prison chaplains, the Rev Sandy Shaw).

42. While he was in H M Prison, Inverness, Mr Currie received regular visits from his wife Mrs Currie and other members of his family. These visits took place on 4, 5, 10, 18 and 24 August and 1, 8 and 15 September 2004. In addition Mr Currie was able to make regular telephone calls to Mrs Currie and his mother and send and receive letters.

43. The ACT case conference on 9 August 2004 was attended by Ms Dingwall, Mr Walter Dickson, a prison officer, Ms Catriona Spence, a Residential Group Manager in the prison, and Mr Currie himself. He was then assessed as being at no apparent risk of suicide. It was recorded that he denied thoughts of suicide or self-harm, that he had stated that he was interacting well with fellow prisoners and his cellmate and it was noted that he maintained good eye contact and was open in conversation. The case conference decided to close the ACT procedure in respect of Mr Currie. At no time while he had been subject to this procedure following his transfer to H M Prison, Inverness, had he been placed in an anti-ligature cell or required to wear anti-ligature clothing.

44. As part of the scheme of care for individual prisoners at H M Prison, Inverness, it was provided that a Contact Sheet for each prisoner in B Hall should be completed on a fortnightly basis or at any significant occurrence by the prisoner's personal officer and signed by both the officer and the prisoner as a record of the interview. In the case of Mr Curry there is only one such entry. It was dated 12 August 2004 and read:-

Scott appears to have settled down, struggled a bit during the first couple of weeks, but is now focusing on making good use of his time in prison. Scott is keen to gain a trusted job, attends PT daily.

The entry was signed by the prison officer, Mr Hugh MacLennan, and by Mr Currie.

45. On 14 August 2004 Mr Currie wrote to his wife. In this letter he wrote, inter alia:-

I'm not going to lie this is the toughest experience of my life ..... I do suffer dark times as it's difficult mostly at weekends. However my prayers are helping me and the religious books I am reading. The one I've just completed is about prisoners' testimonies of how Christ came into their lives and released them in prison by giving them hope, security, peace and love and the strength to finish their sentences. The Lord gives me all these but sometimes they fade. I can't let them fade any more even though this B Wing is very tough. I feel the system is unfair as I'm no threat to anyone yet am restricted to this small cell quite often.

Hopefully though it won't take too long to progress to C Wing which has a far more relaxed regime. I spoke to Hughie MacLennan, my sentence management officer, his feelings were that he couldn't understand why they hadn't put myself and David Robertson another lad who got four years for the same thing .....

It's quite surprising to myself and my sentence manager that we didn't enter as low cat prisoners. However he assures me that he'll stick his neck out and put myself and David down to low cats in several weeks then I will qualify for C Wing. That seems like ages away.

Mr Currie also spoke in the letter of his love for his wife and children and how the happy memories of them kept him going. In this context he mentioned too the fact that he was going to the gym in the prison from Mondays to Fridays and that he had "got news of my physio next week". He ended: "When I'm thirty two I'll be out and about with you again". And he added a postscript: "PS Let's look at all the positives".

46. In this letter Mr Currie also asked his wife to arrange for various items to be brought into the prison for him including his belt. This she did on 24 August 2004 and his belt was duly passed on to him.

47. On 16 August 2004 Mr Currie was seen within the prison by Dr A G Hay (the consultant psychiatrist referred to in finding 5 above). Dr Hay had earlier been contacted by Mrs Currie who had expressed her concern about Mr Currie's mental state and low mood in prison. But even without this contact Dr Hay would in any event have seen Mr Currie at the instigation of the prison nursing staff.

48. Dr Hay subsequently recorded the circumstances of his meeting with Mr Currie in a letter dated 18 August 2004 which he wrote to Dr I C Russell in his capacity as one of the medical officers at H M Prison, Inverness. Dr Hay referred to the difficulty Mr Currie was having in adjusting to life in prison, to the fact that he found weekends bad as he had to spend a lot of the time locked up, to his having a new cell mate with whom he got on reasonably well and to his enthusiasm to be moved to C Wing. Dr Hay also mentioned his attendance at the gym within the prison and the Education Unit and the fact that Mr Currie enjoyed a visit from his own family minister, Dr Ross, once a week and in addition was in regular contact with two of the prison chaplains. He noted that Mr Currie found prison church services supportive and uplifting. On more than one occasion during the meeting Mr Currie told Dr Hay very clearly that, while he had had thoughts of killing himself, he had no present intention of acting on these thoughts

49. Referring to Mr Currie's mental state, Dr Hay wrote:-

On assessment of his mental state he subjectively described his mood as low and this was the case from my own objective perspective. He did, however, manage to smile on a couple of occasions. He reported a maintained interest in religion and looked forward to his visits. He also appeared motivated to try and structure his day and his time in custody. He reported sleeping well save at weekends when he found it difficult to sleep because he had been locked up for so much during the day. He did not like the prison food and felt that he was losing weight. He was not unduly weepy. He reported some loss of concentration. He told me that he had seriously

contemplated suicide although had no discreet plans. He was very concerned in telling me this in that I would end up putting him in an observation cell which he felt would only make things worse. I would agree with this and I promised him that I would not take such action. I did not feel he was actively suicidal at the time I saw him. His thought content was negative in flavour but largely in keeping with the situation he finds himself in. There was no evidence of any psychotic symptomatology.

50. In the final paragraph of his letter Dr Hay again referred to the difficulty Mr Currie was having in adjusting to prison life. He mentioned that he had reduced the daily dose of Mirtazapine from 45mg to 30mg. In conclusion, Dr Hay wrote:-

When I saw him today I did not feel that he was clinically depressed although he is clearly at high risk of becoming depressed in the future. I will review him again in another two or three weeks.

51. On 17 August 2004 Mrs Currie telephoned the Scottish Prisoners' Families' Helpline as she was concerned about Mr Currie's welfare. He had telephoned her the previous evening and expressed low mood and spoke of self-harm and/or suicide. The Helpline worker spoke to Mr Kenny McGeachie, the National Mental Health Co-ordinator of the SPS who in turn spoke to Mr Alexander Hamilton, the Clinical Manager in charge at H M Prison, Inverness. As a result Mr Hamilton (who was himself a registered mental health nurse) arranged for Mr Currie to be seen that day by Mr David Cameron, a Forensic Liaison Nurse. He was qualified, *inter alia,* as a registered mental health nurse.

52. In his report dated 17 August 2004 which Mr Cameron prepared subsequently, he noted at times during the assessment that Mr Currie's eye contact had been quite poor and his body language had been extremely tense. His rhythms and inflections of speech had been normal but he had been hesitant in answering some questions, especially concerning the risk of suicide in case Mr Cameron recommended that he be sent to an anti-ligature cell. The final three paragraphs of Mr Cameron's report read as follows:-

He initially was sent to Barlinnie where his cellmate re-kindled his faith in God and he feels this is a strong support for him. Initially, when admitted to Barlinnie, he had some suicidal ideation and had been making plans to complete suicide in that he was to dismantle his radio and use a part to short out the electricity, hoping to kill himself. I pointed out that this would not have been at all certain and Mr Currie agreed, saying that it had only been a fleeting thought and he had not seriously considered it. He states that he has no suicidal ideation at this time. At the moment, he keeps himself busy with education, using the gym and doing cardio-vascular exercises. He spoke to his wife today and feels that she is giving him strong support. His appetite is good although he does not like the prison food very much. His sleep pattern is as usual.

I told Mr Currie that I could see no sign of any major mental illness present. However, I have some concerns about how quickly and readily he has regained his faith and the overwhelming support he seems to be deriving from it so quickly. There was no sign of any deep clinical depression or anxiety state. He is obviously

stressed by his experience and nervous that, as he put it, that he may be put into an isolation cell.

I have arranged to see him again in a fortnight's time.

53. According to a separate note which he made the same day in the prison medical records, Mr Cameron in fact arranged to see Mr Currie in a month's time. It is not clear from the records whether he did indeed see Mr Currie again.

54. On 24 August 2004 Mr Kelman went to B Hall to see Mr Currie with a view to spending time with him at the Daycare Facility. Mr Currie explained that he was waiting to be collected to go to the Education Unit and that he no longer needed to attend the Daycare Facility and that he would prefer to get his head down and attend the Education Unit and the prison workshed or get a job in the prison laundry. In other words, he was indicating to Mr Kelman that he had found other ways of occupying his time in the prison and no longer needed the assistance of the Daycare Facility. Mr Kelman explained what the procedure would be should Mr Currie wish to reactivate his attendance at the Daycare Facility.

55. Mr David Brown is the Head of Residential at H M Prison, Inverness. One of his responsibilities is to deal with the transfer of prisoners in and out of the prison. This has a design capacity for 108 inmates, but at present there is budget funding for up to 150 inmates. If the number exceeds this, Mr Brown arranges to export prisoners to other establishments. In doing this he applies various criteria, one of these being that a prisoner who is serving a sentence of four years or more should be accommodated in a long term prison (which H M Prison, Inverness, is not).

56. A prisoner who is told that he is to be transferred from Inverness may make representations against his transfer, and in certain instances the transfer may be postponed either temporarily or indefinitely. There are scarcely any prisoners within H M Prison, Inverness, who would be willingly transferred to another establishment and at times therefore Mr Brown and his colleagues have to make difficult and unpopular decisions about the transfer of prisoners.

57. One day towards the end of August 2004 Mr Brown was in B Hall of the prison when he met Mr Currie. Mr Currie asked to speak to him and said that he did not want to be transferred back to an establishment such as Barlinnie. He said that he had his family and children in Inverness and that he wished to remain in the prison there. Mr Brown responded that he should be aware that, as a long term prisoner serving a sentence of four years or more, he would be liable to be transferred elsewhere. At the same time Mr Brown explained that in his experience prisoners at H M Prison, Inverness, serving sentences of four years often remained there, but that he could not give Mr Currie any guarantee in view of the serious overcrowding in the prison at that time.

58. Mr Currie then stated that his crime had been an accident, an error of judgement and that he had not been drinking at the time, nor had he taken drugs. He said he did not mean to sound bad and he then made a comment to Mr Brown the gist of which was to the effect that the people he had killed had been elderly and had had their lives and that he himself had a family and children and his life ahead of him. At

this Mr Brown dismissed Mr Currie into the hall from the corridor where they had been speaking.

59. Dr Hay saw Mr Currie in the prison again on 6 September 2004. His impression was that there was more of a spark to Mr Currie than when he had seen him previously and that things were improving for him in the prison, albeit that he was still most unhappy at being there in the first place. They discussed Mr Currie's suicidal thoughts and Mr Currie again stated, and Dr Hay accepted, that he had no intention then of acting on these thoughts. Mr Currie told Dr Hay that he found contact with him helpful and he asked to be kept under review by him. It was arranged that Dr Hay would see him again in three weeks time. It would normally have been two weeks, but Dr Hay was on holiday on 20 September 2004 (as Mr Currie knew).

60. Dr Hay recorded the circumstances of this meeting in a letter dated 7 September 2004 which he wrote to Dr Russell. Dr Hay noted that Mr Currie was very much set on having his supervision category status reduced so that he could be transferred from B Hall to C Wing. This was a reference to the fact that, on his admission to H M Prison, Inverness, Mr Currie's security supervision level had been assessed as medium. This was quite normal for a prisoner in Mr Currie's position and in the ordinary course of events it was to be expected that up to six months might elapse before his supervision level might be reduced to low (which would in turn allow for his transfer to C Wing).

61. In his report to Dr Russell Dr Hay noted that Mr Currie was still attending the gym on a daily basis and also the Education Unit which he appeared to enjoy. He had also started an Alpha course and found his new-found religion "very uplifting".

62. In the final paragraph of his letter Dr Hay wrote:-

My overall impression remains of a gentleman who is having great difficulty in coming to terms with his prison sentence. There was, however, no evidence of an underlying major depressive illness, although I have no doubt that his mood is very low. Likewise there is no evidence of any manic shift. I did not feel that he was currently suicidal, although would acknowledge that he is a gentleman who could be seen as of being at high risk given the situation he finds himself in. I suspect this risk is likely to be on-going, although will gradually reduce in time as he comes to terms with his prison sentence. I also believe that placing him in the back cells, or under strict suicide observation, is likely to be detrimental to his well being and cause a further deterioration in the very mood we are trying to protect. As regards medication, he remains on Mirtazapine (30) mg daily. Given his history of bipolar disorder, I discussed with him the possibility of going back on his lithium. For the time being he would prefer not as he feels he lost some creativity with this. I once again advised him of the need to structure his day and keep himself occupied in the hope that this makes what is clearly a negative situation more positive. I will keep him under review.

63. On 7 September 2004 Dr Hay also wrote to the Assistant Governor of the prison referring to the fact that Mr Currie was very keen to be able to move to G Hall (he meant C Wing) when his status changed from medium to low category. Dr Hay then stated:-

Although I appreciate that where prisoners are placed is ultimately the decision of yourself, I have concerns about his mental health in B Hall. I write to request that when the time comes, his application for C Hall be viewed sympathetically.

Shortly after writing this letter Dr Hay had an informal discussion with the Assistant Governor about Mr Currie in which he mentioned that this letter was on its way to her. The gist of their discussion was to the effect that they both acknowledged that Mr Currie was having great difficulty in coming to terms with being in prison and needed support. But Dr Hay emphasised that he was not trying to press Mr Currie's case ahead of those of other prisoners who might be more deserving and of whom he was not aware. The Assistant Governor indicated to Dr Hay that the request would be looked at very sympathetically when the time came.

64. On 7 September 2004 the Rev Sandy Shaw was in the prison to conduct the chaplain's hour which was a group session (typically with between three and nine prisoners present) when prisoners could come and discuss any matter that they wanted. Shortly before the hour began officially Mr Currie asked to speak privately to Mr Shaw. They went together into an office where Mr Currie told Mr Shaw in a very quiet voice that he was finding life in the prison very difficult and that he would find it difficult to continue if it were not for the Sunday services in the prison, the pastoral visits by members of the chaplaincy team and the chaplain's hours, the support he received from his family and the comfort he got from his cellmate Mr Leith (who had also engaged with the work of the prison chaplaincy). He went on to speak of the dark thoughts that sometimes went through his mind and he spoke more of how difficult he found the loss of his liberty and the separation from his family. He explained that these difficulties were not because of anything said to him in the prison and that he found the prison officers very supportive.

65. Mr Shaw then asked Mr Currie for an assurance that he would not harm himself and he replied to the effect: "Oh, no, not because of my wife and kids. Oh, no, I wouldn't". At this Mr Shaw asked Mr Currie if Mr Leith could be invited to join them. Mr Currie agreed and when Mr Leith came in Mr Currie reassured them that he would not harm himself. Mr Leith for his part reassured Mr Currie and Mr Shaw that he would be every encouragement and support to Mr Currie.

66. Mr Currie asked that this conversation should not be repeated outside the chaplain's office. But Mr Shaw was so concerned by what he had heard that he spoke subsequently to Mr Hamilton about the incident. Mr Hamilton attempted to reassure Mr Shaw and drew his attention in particular to the fact that Mr Currie had been seen by both Dr Hay and Mr Cameron.

67. On the evening of the same day Ms Dingwall was on duty in the prison health centre. Following Mr Shaw's conversation with Mr Hamilton Ms Dingwall arranged for Mr Currie to be brought to the health centre to have a chat with him and see if he was all right. They spoke for about half an hour or so. She noted that he had good eye contact and was open in conversation. He denied any thoughts of suicide or self-harm and stated that he had his family waiting for him outside and that, now that he was a "born again" Christian, he had found a new way of life and the Bible was really helping him. He spoke too about his wish to have his security category changed so that he could be transferred to C Wing. Following this conversation Ms Dingwall

placed a health care marker in B Hall to raise the awareness of the staff there to Mr Currie's situation.

68. During the evening of 8 September 2004 Mrs Currie visited Mr Currie in the prison on her own. On previous visits by her his mood had often been low and he had made remarks to her to the effect that he did not think he was going to make it and that he might attempt to take his own life. On this particular occasion he was tearful. Mrs Currie observed red indented marks on his neck and after some pressing he admitted to her that he had just tried to hang himself with his belt while on his own in his cell. He said something to the effect that the belt had broken free. He told her that he had wanted to die. He asked her not to tell anyone about this as he feared that he might be put in an anti-ligature cell and she agreed to his request.

69. That evening following Mrs Currie's visit Ms Dingwall saw Mr Currie to give him his medication. She was not specifically looking for marks on his neck, but she certainly did not note any.

70. Mrs Currie was understandably very concerned about what had happened during her visit and decided the following morning that she should telephone the prison and ask to speak to the Governor or Assistant Governor to express her concern and to discuss how Mr Currie was being supported in prison.

71. Mrs Currie duly telephoned the prison that morning but was unable to speak to either the Governor or the Assistant Governor. She spoke instead to a prison officer, Ms J Clarkson. She told her that she was Mr Currie's wife and she described what had happened the previous evening during her visit to Mr Currie. She explained that she had seen marks on his neck and that he had admitted that he had tried to hang himself with his belt. She also told Ms Clarkson of his fear of being placed in observation.

72. The conversation between Mrs Currie and Ms Clarkson took place shortly before 10.15 am. As a result of it, Ms Clarkson decided to initiate the ACT procedure in respect of Mr Currie. She completed the appropriate form C1. In accordance with the ACT procedure she then had to complete a second form C2. Towards the top of this form there was a box in which the person initiating the procedure (in this case Ms Clarkson) was invited to explain in her own words why she felt concerned about Mr Currie. In this box Ms Clarkson wrote:-

I received a call from the prisoner's wife Sarah Currie stating she had visited him last night and seen marks on his neck. Scott Currie admitted he had been harming himself. Concerned as S Currie has a history of serious depression.

73. At that time Mr Currie was in the Education Unit of the prison. He was collected from there and taken to an office where a case conference was held at or about 11.40 am. Apart from Mr Currie himself, those present at the conference were Ms Dingwall, Mr John Moffat, a Residential Group Manager in the prison, and Mr Scott Masterson, an officer in B Hall.

74. The ACT procedure flowchart provided that Mr Moffat (who was the supervisor for this purpose) and Ms Dingwall should separately see Mr Currie and complete

respectively a report and a nursing assessment on the appropriate forms before the case conference began. But in Ms Dingwall's experience this procedure was not always appropriate since some prisoners could be intimidated by having to be interviewed separately before the case conference by both a supervisor and a nurse in uniform and could, in Ms Dingwall's words, "clam up" on the interviewer. Likewise in her experience some prisoners could be distracted by an interviewer making notes as the interview progressed and could become quite defensive when the point of the interview was to encourage the prisoner to open up to the interviewer. In such cases Ms Dingwall considered that it was more likely that a prisoner would open up in the setting of a group discussion so that it would be preferable to proceed at once to the case conference and then complete the various forms after this had been concluded.

75. Having had a discussion with Mr Currie as recently as the evening of 7 September 2004, Ms Dingwall considered that this alternative approach should be followed in his case. She had read his medical records that evening and nothing had been said at staff handovers to suggest that anything of significance in relation to his care had occurred since then. He was asked if he would like to have a one-to-one session with Ms Dingwall first and he indicated that he was quite happy to proceed at once to a group discussion. So the case conference took place without further ado and the forms were completed after it had been concluded.

76. During the case conference Mr Currie was very open and relaxed. He made good eye contact and, judging by his body language and general demeanour, all three of Ms Dingwall, Mr Moffat and Mr Masterton considered he was telling the truth. He was asked about the report from his wife to the effect that she had seen marks on his neck the previous evening and he had admitted to her that he had tried to harm himself. He appeared to be quite angry at what his wife had said and denied repeatedly that he had harmed himself. (None of the three members of staff was apparently aware at that time that in her telephone call to Ms Clarkson Mrs Currie had specifically stated that Mr Currie had tried to hang himself with a belt). With his permission Ms Dingwall moved his T-shirt to the side to check his neck and saw no sign of any marks on it. He was aware that he would be made subject to the ACT procedure if he admitted that he had tried to harm himself. But he was also aware from when he had previously been subject to this procedure following his admission to H M Prison, Inverness, that this did not necessarily mean that he would be placed in an anti-ligature cell (which was something he evidently wanted to avoid). In assessing his replies Ms Dingwall took into account at the time that he in common with most, if not all, prisoners, would be concerned that, if he was made subject to the ACT procedure, he might be put in an anti-ligature cell (which he would not welcome) and that he might accordingly be withholding information from the case conference.

77. In the supervisor's report on form C3 Mr Moffat wrote:

Scott is finding it difficult not being able to work and spending time behind his door.

Finding prison a major culture shock and is taking time to settle.

Denies thoughts of self-harm/suicide.

States he will talk to staff with any concerns he has.

78. In the pre-case conference nursing assessment on form D1 Ms Dingwall wrote:

Spoke with Scott.

Good eye contact.

Denies thoughts of suicide or self-harm.

Stated slightly frustrated at being in B Hall.

Officers discussed progression protocols.

Scott happy with this.

The references here to Mr Currie's frustration and the progression protocols were references to his wish to be transferred to C Wing in the prison and Mr Moffat's explanation to him of the different security categories applicable to prisoners and the security category that Mr Currie would have to achieve before he could be moved to C Wing. This aspect of the discussion in particular indicated to Ms Dingwall that Mr Currie was looking to the future and his progression within the prison system.

79. The result of the case conference was that it was decided that Mr Currie was at no apparent risk and the ACT procedure was therefore brought to a close. On the record of the case conference on form E under the heading "Risk Assessment" Ms Dingwall noted:-

No risk of suicide or self-harm.

Denies any thoughts of above.

Good eye contact.

Agreed to speak to staff if mood gets low.

The form provided that, if a prisoner was found to be at no apparent risk, the form should be closed and that there should be recorded on the attached care plan any aftercare required. On the care plan Ms Dingwall simply wrote: "ACT closed". She did not consider it necessary to place a health care marker in relation to Mr Currie in B Hall following the case conference since to her knowledge one had been placed there only two days previously, on 7 September 2004.

80. Mrs Currie was not spoken to by any of Mr Moffat, Mr Masterton or Ms Dingwall before or after the case conference and she was not invited to attend it. Although the ACT procedure envisaged that a member of a prisoner's family might be invited to a case conference it would have been most unusual at that time for this to have happened in practice.

81. In addition to telephoning Ms Clarkson, Mrs Currie that morning telephoned Mr David Stewart who was then the Member of Parliament for Inverness East, Nairn and Lochaber. Mr Stewart in turn contacted the Governor of H M Prison, Inverness, and reported the substance of his conversation with Mrs Currie. He mentioned in particular that she had observed rope marks (or so Mr Stewart said) on Mr Currie's neck and he expressed concern about Mr Currie's mental health and emphasised the urgency of the situation.

82. As a result of the call from Mr Stewart, the Governor contacted Mr Hamilton to enquire about the care of Mr Currie. Mr Hamilton was unaware of the fact that the ACT procedure had been initiated. Either he or Ms Dingwall (or possibly both) asked his wife, Mrs Eileen Hamilton (who was an addictions nurse at the prison and who had qualified as a registered mental health nurse) to go and speak to Mr Currie.

83. Mrs Hamilton duly saw Mr Currie along with a student nurse, Ms Dawn Stevenson. It is not clear whether or not either of these persons was aware that the ACT procedure had been initiated and then closed that morning. At all events they had a session of about three quarters of an hour with Mr Currie during which he spoke about various issues that were of concern to him. He appeared to Mrs Hamilton (in her words) to be "appropriate, warm, spontaneous in his answers". He was asked if he felt like harming himself and without hesitation said No. Judging by his demeanour Mrs Hamilton did not think that he was trying to deceive her. He was asked whether, if things changed, he felt that he could talk to a member of the prison staff and he replied Yes. Mrs Hamilton had no concern that day that he was at risk of self-harm or suicide, nor did she detect any overt signs or symptoms that he might have had a mental health problem at that time. The subject of his moving from B Hall to C Wing was discussed at length. He was evidently anxious that this should take place as soon as possible, and appeared to have unrealistic expectations about how soon this might be achieved. It was arranged that Mrs Hamilton and Ms Stevenson would see him again in a week's time.

84. Mr Currie telephoned Mrs Currie that same day and thanked her for having got in touch with the prison. Mrs Currie recollected that he had stated to her that he had been seen by members of the staff of the prison and that they would be trying to arrange for him to get work in the prison workshed. It is probable that this telephone call was made after the ACT case conference but before Mr Currie was seen by Mrs Hamilton and Ms Stevenson.

85. On 13 September 2004 a medical/nursing case conference (not to be confused with an ACT case conference) took place to discuss the arrangements for Mr Currie's future care. There were present Dr Hay and Mr Hamilton. Neither of these persons was aware of the terms of the telephone call by Mrs Currie to Ms Clarkson on 9 September 2004 or the subsequent initiation and then termination of the ACT procedure. It had originally been intended that the Assistant Governor of the prison should also be present but she was called away to attend another meeting. (It is not clear whether or not Mrs Hamilton was also present). According to Mr Hamilton's note in the prison medical records the outcome of this case conference was that it was agreed that Mr Currie would be seen by Dr Hay in three weeks time and thereafter every three months, by Mr David Cameron every month and by Mrs

Hamilton every week to two weeks as required. It appears that Mr Currie was not told of the outcome of this case conference.

86. On or shortly before 15 September 2004 a decision was taken by a member of the staff of the prison in the absence of Mr Brown (who was on leave at the time) to transfer Mr Currie back to H M Prison, Barlinnie. This decision was in itself entirely reasonable in light of the length of Mr Currie's sentence and the overcrowding at that time within H M Prison, Inverness.

87. Mr Hamilton was advised of Mr Currie's impending transfer on 15 September 2004. He was sufficiently concerned for Mr Currie's welfare that he telephoned the Clinical Manager at H M Prison, Barlinnie, to make her aware of the impending transfer and the potential mental health care implications for Mr Currie of such a transfer.

88. Mr Currie himself was extremely distressed at the prospect of being transferred to Barlinnie. This was evident to Mrs Currie when she visited him with his parents that evening. This was the last time that they saw Mr Currie alive.

89. Mr Currie was advised to appeal against the decision direct to the Governor. This he did on the appropriate Form CP2 (Crown production 12). On this form Mr Currie drew attention to his bipolar affective disorder and the impact upon it of the road traffic accident and his subsequent imprisonment. He explained that his having been transferred to H M Prison, Inverness, and hence being closer to his wife, young children and parents had helped him immensely to control his illness and he referred to the fact that he had been receiving physiotherapy at Raigmore Hospital, Inverness. He then wrote:-

On first arriving here I could not get up in the morning, I was unable to cope with the length of sentence or the consequences of this car accident and my feeling of guilt but gradually with the help of prison officers, inmates, medical and psychiatric staff I have improved and accept my debt to society. I also have benefited immensely from using the gym on a daily basis as physiotherapy. This contrasts sharply with the lack of facilities and the pressures on staff at Barlinnie as I had experienced previously. The Governor and senior staff at Barlinnie made strenuous efforts to have me transferred to Inverness to be in close proximity of my wife and young children, and parents, this was done for the benefit of my physical and mental well being.

I feel a transfer to another jail will precipitate a downward spiral in my health both physically and mentally.

I understand that this is a short term jail but would ask you to consider my extenuating circumstances and allow me to remain here within easy access to my young family.

90. In this appeal Mr Currie rightly acknowledged the help that he had received at H M Prison, Inverness, from prison officers. There is very little in the way of documentary evidence of this, but it is clear that Mr Currie did in fact receive a good level of care and support from individual prison officers at H M Prison, Inverness whom he trusted and looked to for help and who understood his situation and

appreciated his needs as a father and husband. In the words of the prisoner Mr David Robertson they were "professional and very understanding".

91. In addition Mr Currie (as he had himself acknowledged to Mr Shaw on 7 September 2004) derived considerable support from the services of the prison chaplaincy. These services included his attendance at sessions of an Alpha course which had started at about the beginning of September 2004 and which took place twice a week on Wednesday afternoons and Thursday evenings. They were conducted by the Rev J H Robertson (another of the prison chaplains) and were attended by about eight prisoners including Mr Currie and Mr Leith. During these sessions Mr Currie spoke freely of his anxieties, for example about his difficulties coping in prison and the possibility that he might be transferred back to H M Prison, Barlinnie. In this respect Mr Currie differed from other young men whom Mr Robertson had known to commit suicide and who had communicated nothing of their feelings. Although Mr Currie did not speak to him of committing suicide, Mr Robertson was sufficiently concerned about Mr Currie that he spoke to Mr Hamilton about the possibility that he might self-harm. At the same time he thought that the risk of this was less than in other cases on account of the freedom with which Mr Currie was able to discuss his feelings at the Alpha sessions. In this context both Mr Robertson and the other prisoners attending the course offered a great deal of support to Mr Currie in his perceived difficulties.

92. Overall, during his sojourn in H M Prison, Inverness, Mr Currie received considerably more support from the prison chaplains than other prisoners. In addition he was visited in prison more or less once a week by his own family minister in Inverness, the Rev Dr John Ross (which again was more than the norm enjoyed, if at all, by other prisoners). These visits lasted for varying lengths of time up to an hour or so and during them Dr Ross and Mr Currie were alone. Mr Currie was able to discuss freely with Dr Ross his feelings about being in prison. Dr Ross considered that from the outset Mr Currie was coping very badly with being in prison. Mr Currie spoke in particular of his difficulties with coping with life in prison and how intimidated he felt and fearful of other prisoners. He spoke too of his fear of being transferred back to Barlinnie which he felt would be far worse even than Inverness, both on account of the prisoners and general regime there and since it would mean being separated from the support of his family and the prison chaplaincy services in Inverness. He also spoke of the guilt he felt at the very great difficulties which had been created for his wife and young family as a result of his imprisonment and at his having been responsible for the deaths of three other people in the road traffic accident in November 2003. Although he never mentioned to Dr Ross any specific intention to commit suicide, on several occasions he hinted strongly that he felt it would be better for everyone if he were out of the picture (or words to this effect). Dr Ross did his best to discourage Mr Currie from any thought of escapism by suicide or emotional involvement with Christianity as an anaesthetic and urged him to face up to his situation with God's help.

93. In the absence of the Governor, Mr Currie's appeal against his proposed transfer to Barlinnie was considered at or about 10.30 am on 16 September 2004 by Mr Allan Coyne, Head of Operations at the prison. He had earlier that day seen an e-mail from the Deputy Governor of H M Prison, Barlinnie, expressing concern about the prospect of Mr Currie's impending transfer and he had then discussed Mr Currie's

circumstances with staff in B Hall. The latter had told Mr Coyne of the problems being experienced by Mr Currie in prison and the benefit he derived from the proximity of his family. Mr Coyne quickly decided that Mr Currie's name should be taken off the transfer list, and he was confirmed in this decision when he received Mr Currie's appeal. He then advised Mr Currie that he would be permitted to remain at Inverness for the immediate future and that he would discuss the possibility of his remaining at Inverness on a longer term basis with Mr Brown on his return from leave on 20 September 2004. He stressed that the final decision lay with Mr Brown but he indicated to Mr Currie that in practice it was 99.9 per cent certain that he would be allowed to remain at Inverness, although he could give no guarantee of this.

94. Mr Currie was very relieved at this decision, and this was apparent to Mrs Hamilton and Ms Stevenson when they saw him that same day. His mood was more positive, chiefly it appeared because of the decision to remove his name from the transfer list, but also because of his involvement in other aspects of prison life and in particular the Alpha course. Once again he exhibited no overt signs or symptoms of any mental health problem, nor did he give Mrs Hamilton any reason to think that it might be appropriate to start the ACT procedure in relation to him. It was arranged that he would be reviewed once more in a week's time.

95. Mr Currie's relief was evident also to Mr Shaw who saw him briefly during the afternoon of 16 September 2004 having gone to the prison especially to try to intercede on Mr Currie's behalf to prevent his transfer to H M Prison, Barlinnie (by which time Mr Coyne had already made his decision to take Mr Currie's name off the transfer list).

96. Dr Ross also saw Mr Currie that afternoon (for the last time). This meeting lasted at least an hour and during it the conversation ranged over the same topics as they had discussed during Dr Ross' previous visits. It appeared to Dr Ross that Mr Currie still had in his mind the possibility that he might yet be transferred back to H M Prison, Barlinnie. Dr Ross considered that the events of the last few days, namely the placing of Mr Currie's name on the transfer list and its subsequent removal, had (in Dr Ross' words) "fundamentally destabilised" Mr Currie. Once again, Mr Currie suggested that it would be better for everyone if he were out of the picture and Dr Ross did his best to discourage any such thoughts. Dr Ross did not have the impression that there was an imminent intention on Mr Currie's part to take his own life any more than there had been on his previous visits. In hindsight Dr Ross thought that there had been an emotional intensity about Mr Currie that day. As he left Mr Currie said to him: "Don't go. I love you" (or words to this effect). Again in hindsight Dr Ross felt that he had been saying goodbye to him for the last time.

97. Mr Robertson saw Mr Currie for the last time that evening. He (Mr Currie) spoke of a spiritual experience which he had had the previous night and how God had brought him peace. Although the immediate prospect of a transfer to H M Prison, Barlinnie, had been lifted it appeared to Mr Robertson that Mr Currie was still concerned that this might happen at some later stage.

98. That same evening in their cell Mr Leith noticed that Mr Currie had what he described variously as "an aura" or "a serenity" about him. Mr Leith asked if he was

all right and Mr Currie replied that he just felt so content. He continued to behave cheerfully through to the ensuing weekend.

99. Mr Currie was seen the following morning, 17 September 2004, by Dr Sweenie (who was unaware at that time of the events of 8 and 9 September 2004). He had asked a nurse in the prison whether he could have the use of a light box and she had referred him to Dr Sweenie to discuss this with him. He explained to Dr Sweenie that he was looking forward to getting on with his sentence, that he was trying to get something positive out of being in prison and that he did not feel so black any more. He denied having any thoughts of self-injury. He told Dr Sweenie that, while he was not feeling down at that particular point in time, he felt that if he was going to be in prison in the winter months then a light box might be something that he would be interested in to help him in case his mood did go down. This was reassuring to Dr Sweenie in that it indicated to him that Mr Currie was indeed looking to the future and considering what would be happening several months ahead rather than at that particular point in time. In contrast to his manner when Dr Sweenie had last seen him on 13 July 2004, he appeared to Dr Sweenie to be very settled and relaxed. He made good eye contact, was friendly and polite, appeared open and engaged with Dr Sweenie and did not seek to be evasive but answered questions put to him straight away. Dr Sweenie was aware that there were no light boxes available at his own surgery and that they could not be prescribed on the NHS. The upshot of their meeting therefore was that it was arranged that the subject of providing Mr Currie with a light box should be raised when he next met Dr Hay.

100. At about 2.44 pm on Sunday 19 September 2004 Mr Currie telephoned Mrs Currie. The call lasted approximately 24 minutes. It was recorded on tape, and Crown production 13 is a transcript of the conversation between Mr and Mrs Currie. As a record of the conversation it is substantially accurate although there are a few errors and omissions but none of any significance.

101. During the conversation Mr and Mrs Currie discussed a variety of matters. In particular, Mrs Currie emphasised to Mr Currie the strain to which she was subject in having to care for their four young children on her own. Thus at one point she said: "I can't take much more, well I can't take any more actually", and shortly afterwards: "You know I'm not in control just now of things and I'm really at the stage of packing it all in", and then: "You know people are saying you don't deserve to be in there. It's us that don't bloody deserve to be going through this. It's us on the outside and you all think that poor you in there and you don't give a thought about the ones that have to deal with it on the outside".

102. Mrs Currie spoke also of her concern that since she had last seen him on 15 September 2004 he had not telephoned her to tell her that his transfer to H M Prison, Barlinnie, was not after all to take place. She emphasised too the importance of Mr Currie accepting responsibility himself for his progression through the prison system and she explained this by saying: "Because then you'll come out stronger within yourself and more happier". She raised the possibility that, while he might continue to telephone and talk to her, she might "take a back seat" and stop going to visit him in the prison or at least would only visit him when he was willing to listen to her point of view. He asked her if she was not going to visit him and she replied: "I don't

know". Later on she said to Mr Currie: "I don't know what it is whether it's you getting in touch or not, sometimes I think it would be better you didn't".

103. Mrs Currie indicated at one point in the conversation that she had been wondering whether he had caused the road traffic accident deliberately in order "to damage yourself or something". When he asked her what her plans for the forthcoming week were she replied that she would be trying not to get so uptight "and angry and aggressive feeling 'cause that's how I am just now". Later on in the conversation they discussed the possibility that Mr Currie might be transferred to an open prison and he expressed the view that there was a good chance that he would not be going to H M Prison, Barlinnie, after all. At no stage in the conversation did Mr Currie give Mrs Currie any indication that he was contemplating suicide.

104. Although he appeared quite cheerful to Mr Leith when they were locked up in their cell that evening, Mr Currie had a very restless and disturbed night following this telephone conversation. He got up several times through the night and flushed the toilet in the cell. (He and Mr Leith had previously agreed not to do this so as not wake each other up). In the morning he did not want to get up and Mr Leith thought he was feeling a bit down. But he did in fact get up shortly after Mr Leith.

105. That morning (which was 20 September 2004) Mr Currie went for the first time to the prison work shed. The staff there sent him back to B Hall to change his shoes since he was wearing trainers rather than prison issue shoes. His return to the work shed shortly afterwards was not noticed by any of the staff there.

106. In the work shed there was a staff toilet, the door to which clearly marked the toilet out as being for the use of staff. This door was commonly kept locked but on that particular day it was not locked. There was a roof light in the ceiling of the toilet with a metal grille below it.

107. Mr Currie entered the toilet and secured the door behind him. This was not seen by any of the prison staff. But it was observed by Mr Leith who saw Mr Currie wave to the prisoner Mr David Robertson just as he entered the toilet. Mr Leith thought he was going to read his Bible in the toilet.

108. In addition to waving to Mr Robertson Mr Currie had also looked him in the eye as he entered the toilet. Mr Currie had looked fine to Mr Robertson and there was nothing about his demeanour at that stage which had given Mr Robertson any cause for concern. Although he had not seen him over the weekend, Mr Robertson had seen him after his name had been removed from the transfer list and he had appeared to be in a good frame of mind at that stage. This was in contrast to many other times when Mr Robertson had seen Mr Currie and the latter had expressed his distress at being in prison and had spoken of "doing things" to himself (though not of going so far as to commit suicide). He had asked Mr Robertson not to report these discussions to the staff of the prison lest he be placed in an anti-ligature cell.

109. Once inside the toilet Mr Currie proceeded to hang himself from the metal grille using his belt.

110. When he had entered the work shed that morning Mr Currie had not known that he would have the opportunity to enter the toilet unobserved and secure the door behind him. Nor had he known until he entered the toilet that he would find there a metal grille from which he could hang himself and a conveniently situated basin and raised ledge beside it upon which he could stand in order to reach the grille.

111. Mr Leith later returned to his and Mr Currie's cell and found Mr Currie's Bible there. He at once alerted prison staff to the fact that Mr Currie had secluded himself in the toilet. When the staff broke the door down they found Mr Currie hanging there. His body was cut down and attempts were made to resuscitate him initially by the staff and then by an ambulance crew which had been summoned to the prison. But these attempts were unsuccessful and at 10.05 am Mr Currie was pronounced dead by Dr Russell (who happened to be in the prison at the time).

112. Mr Currie's death came as a complete shock to Mr Leith who had seen no indication that Mr Currie was about to take his own life that day.

Note

[1] This fatal accident inquiry extended over a period of twenty days during which I heard evidence from a large number of witnesses. Mr Brian Leith appeared, quite understandably, to be rather uncertain about the precise sequence of the events which he described. Likewise, some of the prison officers who gave evidence appeared, again quite understandably, rather vague in their recollection of events. But with these qualifications I saw no reason, judging by their respective demeanours, to doubt the credibility or reliability of any of the witnesses who gave evidence during the inquiry. Re-reading the record of the evidence as a whole and the documentary productions, I think it is clear that some witnesses were mistaken about particular details of which they spoke or the exact sequence or timing of events. But none of these errors was of any material significance and so (subject to one point involving Ms Dingwall which I mention below) I have not thought it necessary to draw attention to them specifically. Overall, listening to the evidence of all those who worked at H M Prison, Inverness, and who came into contact with Mr Currie, I had the clear impression of a group of men and women who did care and took care and who, while they did not always follow the ACT procedures to the letter, honestly and in good faith did their best for Mr Currie in very difficult circumstances.

[2] Counsel for Mrs Currie criticised as unsatisfactory the evidence of the three Crown witnesses who took part in the ACT case conference on 9 September 2004, and it is appropriate that I should comment on these criticisms.

[3] Of Mr Moffat counsel said that he had a very poor recollection, was apt to agree with propositions put to him without thinking about the question and then to change his position, and at one point said: "..... my head's mince". It is perfectly correct to say that Mr Moffat's recollection of the circumstances of the case conference on 9 September 2004 was not good. But it has to be remembered that, by the time he came to give evidence at the inquiry, he was being asked eleven months after the event to recall the circumstances of one particular incident in what was no doubt a busy day for him and which at the time probably did not have the significance in his mind that it later proved to have - and this of course is one reason why it is important

to keep accurate records of steps taken under the ACT procedure. Besides, it is important not to lose sight of the fact that, for most people, giving evidence in court is a stressful enough experience at the best of times, and it is hardly surprising (and here I intend no criticism of the witnesses) that some of the staff of H M Prison, Inverness, including Mr Moffat, should not have had the intellectual stamina and quick-wittedness to respond adequately to the sustained barrage of propositions that were put to them in cross-examination, in some cases literally for hour after hour. In truth, when Mr Moffat made the remark about his head being "mince", it was perfectly understandable that his mind should have become thoroughly confused and my sympathies were entirely with him at that point.

[4] Of Mr Masterton counsel for Mrs Currie contented herself with saying that he had "poor recollection" which in itself was perfectly correct. When he gave evidence he had the advantage over Mr Moffat of having to describe events which had occurred only some nine and a half months previously. But of course this was scarcely an advantage at all and again it is not surprising in my view that he should have had difficulty recalling events. Besides, in his case he gave an explanation for his inability to remember what had happened which I thought was entirely understandable. Towards the end of his cross-examination by counsel for Mrs Currie he described how on 20 September 2004 he had entered the work shed and had found his colleague Mr Paul Todd holding up Mr Currie's body in the staff toilet. It was when he described this that Mr Masterton became visibly distressed in the witness box. Later, in answer to his own counsel, he explained that he had tried to forget most of what had happened having been involved in helping to support Mr Currie's body while it was being cut down from its position of suspension.

[5] Finally in this context counsel for Mrs Currie criticised Ms Dingwall. She acknowledged that Ms Dingwall had remembered matters in a positive light, but she suggested that much (sic) of her evidence sat awkwardly with the evidence of others, for example Mr and Mrs Hamilton. She submitted that, where Ms Dingwall's evidence did not fit with that of Mr and Mrs Hamilton, I should prefer the evidence of the latter particularly as it fitted with Dr Hay's recollection of the case conference on 13 September 2004. To this I would say that I was favourably impressed in particular by a number of witnesses, of whom Ms Dingwall was one. Besides, I think that it is plainly an exaggeration to say that much of her evidence sat awkwardly with that of others. Where she did appear to differ from Mr and Mrs Hamilton was over the question whether, on her return to the health centre following the case conference on 9 September 2004, she had told Mrs Hamilton that this had taken place and had asked her to go and see Mr Currie herself. According to Mr and Mrs Hamilton, the reason Mrs Hamilton went to see Mr Currie then was because Mr Hamilton had asked her to do so, both of them at that stage having been in ignorance of the fact that the case conference had just taken place.

[6] It is one of the drawbacks of a fatal accident inquiry that there are no written pleadings so that issues of fact are very often not properly identified until the inquiry is well under way. If this apparent discrepancy between the evidence of Ms Dingwall on the one hand and Mr and Mrs Hamilton on the other had been clearly focused before any of them began to give evidence I dare say that the solution to it would soon have become readily apparent. It may perhaps be that there was simply a misunderstanding between Ms Dingwall and Mrs Hamilton, or again it may be that

the memory of one or other of them is indeed at fault or that both Mr Hamilton and Ms Dingwall independently asked Mrs Hamilton to see Mr Currie. I am certainly not persuaded that any of these witnesses was being deliberately dishonest over this issue, and at the end of the day I have not thought it necessary to resolve it one way or the other since I do not think that it is of material significance in the whole context of this tragic tale. I will only say that it should not be overlooked here that the evidence of the Governor of HM Prison, Inverness, appeared to support Ms Dingwall's account of this aspect of the matter.

[7] In addition to the three witnesses whom I have mentioned, counsel for Mrs Currie was sharply critical of the Governor himself who, she submitted, had been so defensive that this had led him to adopt a position in relation to various matters that was clearly wrong. She made it plain that she did not question his credibility, but she submitted that I should treat his evidence with caution regarding its reliability in relation to details such as the reason for Mr Currie's transfer to Inverness from HM Prison, Barlinnie, the fact of the door to the staff toilet in the workshed having been unlocked on 20 September 2004, the selection of Mr Leith as Mr Currie's cellmate and the explanation for the fact that Mr Currie had not been to the workshed before 20 September 2004. Counsel also challenged the Governor's criticism of the SPS Internal Review into the circumstances of Mr Currie's death and his opinion that the telephone call between Mr and Mrs Currie on 19 September 2004 had been a major factor in Mr Currie's suicide the following day.

[8] I shall have something to say shortly about my own opinion of the significance of the telephone call on 19 September 2004. As for the other details mentioned here by counsel, I do not think that it is necessary that I should express any view on them. I will only say that, having had an easy time of it with some of his subordinates, counsel for Mrs Currie met her match in the Governor. I thought that he was a most impressive witness who gave his evidence in a very clear, thoughtful and articulate manner and who responded with commendable patience and restraint, but where necessary quite firmly, to what he might at the time, and with some justification, have supposed to be the interminable questions of counsel for Mrs Currie.

[9] I may perhaps at this point mention three other witnesses in particular. The evidence of Dr Hay was given very clearly and I found it to be of great assistance. It would repay careful study by those who think that Mr Currie ought plainly to have been assessed at the ACT case conference on 9 September 2004 as being at high or low risk of suicide and that a necessary, or even probable, consequence of such a finding would have been that he would, or could, not have committed suicide on 20 September 2004. Plainly the record of Dr Hay's evidence (which occupied a very long fourth day of the inquiry) speaks for itself and it is unnecessary that I should repeat it at length here. For those who may have the opportunity to read it I would merely draw attention in particular to what he had to say about (a) the complexities of predicting and managing suicide, (b) the fact that suicidality varies from hour to hour and almost minute to minute, (c) the importance of adopting a collaborative approach with someone who is suicidal, (d) the fact that if somebody is determined to kill himself then he will do so without disclosing his intention to others, whatever environment is set up for him, (e) the steps that he considered appropriate for the management of Mr Currie in H M Prison, Inverness, and (f) the fact that the management of someone who is suicidal inevitably involves a degree of risk.

[10] Mr John McCaig, the Deputy Governor of H M Prison, Barlinnie, was called as a witness on behalf of Mrs Currie and I should record that I also found his evidence helpful. Rightly or wrongly, I wondered whether in hindsight he did not feel slightly uncomfortable about some of the things that have been said in the report of the SPS Internal Review to which he contributed, or at least at the manner in which certain matters had been expressed. Be that as it may, Mr McCaig was notably, and in my opinion rightly, more circumspect than were other witnesses called on behalf of Mrs Currie in what he had to say about events at H M Prison, Inverness, and in particular the events of 9 September 2004.

[11] Finally in this context I should like to mention Mrs Currie who gave evidence with commendable dignity and care over almost a day and a half at the outset of the inquiry in what must have been for her very trying circumstances.

[12] Section 6(1) of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 provides that at the conclusion of the evidence and any submissions thereon, or as soon as possible thereafter, the sheriff shall make a determination setting out the following circumstances of the death so far as they have been established to his satisfaction -

(a) where and when the death and any accident resulting in the death took place;

(b) the cause or causes of such death and any accident resulting in the death;

(c) the reasonable precautions, if any, whereby the death and any accident resulting in the death might have been avoided;

(d) the defects, if any, in any system of working which contributed to the death or any accident resulting in the death; and

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

[13] In many cases following a fatal accident inquiry I have not thought it necessary to make detailed findings in fact under section 6(1)(e) of the Act. But in this instance I have been persuaded that it might be helpful both to Mrs Currie and other members of Mr Currie's family and also to others with a particular interest in the inquiry (including members of the National Suicide Risk Management Group of the SPS) to give a detailed account under section 6(1)(e) of the events which led to Mr Currie's death. It would be idle to pretend that the account which I have given in the findings in fact set out above is altogether comprehensive. Only a reading of the full transcript of the evidence and a consideration of all the productions that were put before the court would give a complete picture of these events as it emerged during the inquiry. Instead I have sought to give a fair summary of what seem to me to have been the salient facts which were established by the evidence.

[14] It was submitted by both the procurator fiscal and counsel for Mrs Currie that a reasonable precaution whereby Mr Currie's death might have been avoided would have been to have ensured that the door to the staff toilet in the prison work shed where Mr Currie hanged himself was kept locked. Plainly, if this door had been locked that morning, Mr Currie would not have been able to enter and conceal

himself in the toilet and then hang himself. So to have locked the door would have prevented his death at that particular time. But this begs the question whether it would have been a reasonable precaution (in other words one for which there was a reason) to have locked the door in order to avoid Mr Currie's death. Here it will be recalled that this was the first day on which he had ever been in the prison work shed. It does not appear from the evidence that he himself had any reason to anticipate that he would find on his arrival there a toilet to which he would have such immediate and ready access in order to hang himself. Nor did any of the prison staff have any reason to anticipate that on his very first appearance in the work shed Mr Currie would at once seize the opportunity afforded to him by the unlocked toilet door to conceal and hang himself. In the circumstances, while it would have been a straightforward matter to have kept the toilet door locked, I think that it would be a misuse of language to say that to have done so would have been a reasonable precaution whereby his death might have been avoided.

[15] Counsel for Mrs Currie also submitted that I should find in terms of section 6(1)(c) that there were two further reasonable precautions whereby Mr Currie's death might have been avoided. These were, in counsel's words, (1) the putting in place of an individualised package of care, including aftercare, for Scott Currie under the ACT and Care Strategy including family involvement and a firm plan for his onward progression through the prison system, and (2) the removal of the threat of a transfer to Barlinnie Prison for Scott Currie.

[16] I have a number of difficulties with the first of these suggestions. To begin with, it was never made clear precisely what additional steps, or what steps different from those that were already being taken, should have been taken to implement the individualised package of care envisaged by counsel. Here it will be recalled that during his time at H M Prison, Inverness, Mr Currie had been the subject of a wide range of measures for his care. Some of these he himself acknowledged in his appeal dated 15 September 2004 against the decision to transfer him back to Barlinnie. Thus he spoke of the advantage of "being closer to my wife, young children and parents", of "receiving physio at Raigmore Hospital" (in Inverness), of "the help of prison officers, inmates, medical and psychiatric staff" in the prison and of the benefit of "using the gym on a daily basis as physiotherapy". In addition he had been attending the Education Unit in the prison and had derived considerable support from the prison chaplains and his own family minister, Dr Ross, and his participation in the Alpha course. Yet, notwithstanding all these supports, he chose to kill himself, and it may legitimately be asked what more (short of keeping him more or less permanently in an anti-ligature cell which he did not want and which would not have been in his interests) could or should reasonably have been done whereby his death might have been avoided. To this question I did not hear a satisfactory answer at any stage during the inquiry. It is all very well for example to say, with the benefit of hindsight, that at the case conference on 9 September 2004 Mr Currie ought to have been assessed as being at high or low risk of suicide. But this begs the question what additional or different measures might have been taken for his care in light of such a decision or whether he would still have been subject to the ACT procedure at the time of his death (and here the evidence of Dr Sweenie of his assessment of Mr Currie on 17 September 2004 will be recalled).

[17] It will be seen that counsel suggested in this context that an individualised package of care for Mr Currie should have included "family involvement". As already indicated, such involvement was already in place to the extent that Mr Currie received regular visits from Mrs Currie and other members of his family while he was in H M Prison, Inverness, and in addition he was able to telephone them from the prison and send and receive letters. I am not sure if it was being suggested here that Mr Currie should have been allowed more family visits than took place in any event. This was a subject touched upon by the Governor when he pointed out that in days gone by a prisoner was cut off quite dramatically from his family and "just had to get on with it" and he posed the question whether the modern welfare approach merely prolonged the agony of a prisoner in accepting the harsh reality of a long-term sentence of imprisonment. Likewise Mrs Currie herself in the telephone call on 19 September 2004 spoke of Mr Currie taking responsibility for his situation and suggested that she might take a back seat and not visit him or only visit him when he was willing to listen to her or alternatively that it might be better that he should not get in touch with her (see pages 4, 8 and 12 of the transcript). Moreover it was clear from the evidence of Dr Ross that one of the matters that weighed heavily on Mr Currie's mind was the burden which had been laid upon Mrs Currie, in particular in caring for their four young children, and whatever else may be said of the telephone call on 19 September 2004 by the end of it Mr Currie cannot have been in any doubt about the extent of this burden and the resulting strain which it had placed upon Mrs Currie. (In passing, I should mention here that Mrs Currie was asked in cross-examination what she had meant by some of the things that she had said during this telephone call. But of course what mattered in this context was not what she meant but what Mr Currie heard her saying). On one view it may well be said that, hard though it may have been for him in certain respects, it might have been wiser in the early months of his sentence to have curtailed the emotional prop offered to him by contact with his wife and family so that he would indeed would have been forced to rely more on his own inner resources. I am by no means sure of this, but I am sure that it is mere speculation in light of the evidence to suggest that Mr Currie's death might have been avoided by more contact between himself and his family than in fact took place.

[18] It may be that what was being suggested here was more involvement by Mrs Currie and other members of the family in the decisions that were made about the arrangements for Mr Currie's care while at H M Prison, Inverness. I can readily understand that in certain circumstances such involvement may be of benefit to a prisoner. I can understand too why, in light of her anxieties for her husband's welfare, Mrs Currie might have wanted to become more involved along with the staff of the prison in the arrangements for Mr Currie's care. But here again I think that it is mere speculation to suggest that this might have made a difference to the eventual outcome.

[19] As for counsel's reference to "a firm plan for (Mr Currie's) onward progression through the prison system", it seems to me that at this point, as in a number of other contexts, counsel came dangerously close to suggesting that Mr Currie ought to have been accorded some sort of preferential treatment in light of his particular circumstances. Here, as in many other aspects of this sad case, a balance had to be struck, in this instance between the needs of Mr Currie on the one hand and on the other the needs of the other prisoners at H M Prison, Inverness, who were entitled to

be treated no less fairly than Mr Currie himself. Mr Currie evidently wanted to remain at the prison and to be transferred as soon as possible to C Wing. Whether, if this had happened, his death might have been avoided is again I think speculation. And in any event there were already well established procedures within the prison for the progression of long term prisoners such as Mr Currie (involving, for example, the reconsideration of his level of supervision within six months of his admission) and it does not seem to me that there was any justification for departing from these procedures especially for Mr Currie's benefit. As the Governor observed, when Dr Hay wrote to the Deputy Governor on 7 September 2004 asking that "when the time comes" Mr Currie's application to be transferred to C Wing be viewed sympathetically, he might equally well have written in similar terms about twenty or thirty other prisoners as well. In point of fact of course it is possible that, if he had not killed himself, Mr Currie would have been transferred fairly soon to C Wing or else E Wing which had a similar regime and to which the prisoner Mr David Robertson was transferred well within the six months within which a prisoner's supervision level was normally reviewed.

[20] Turning to counsel's submission that the removal of the threat of a transfer to Barlinnie Prison for Mr Currie would have been a reasonable precaution whereby his death might have been avoided, there are I think a number of points to be made. In the first place, the management of H M Prison, Inverness, had a responsibility not only to Mr Currie but also to all the other prisoners for the time being incarcerated in the prison and if, as was the case, it became overcrowded they had to take steps to reduce this overcrowding if they could. Plainly the number of inmates in the prison fluctuated more or less on a daily basis, not least because the number of those consigned to the prison by the courts was outwith the control of the prison management. So it seems to me that it would have been quite impracticable for the management to have given a guarantee to a long term prisoner such as Mr Currie that he would never be transferred to another prison such as Barlinnie.

[21] This did not of course mean that the management could not give Mr Currie an assurance that it was most unlikely that he would be transferred to Barlinnie, and it will be recalled that Mr Coyne did precisely this when he told Mr Currie that it was 99.9 per cent certain that he would be permitted to remain at Inverness despite his status as a long term prisoner. And Mr Currie himself recognised that it was unlikely that he would be transferred to Barlinnie. Thus at page 13 of the transcript of the telephone conversation on 19 September 2004 he said, "Yeah but there's a good chance I'm not going there anyway", and then "I don't think Barlinnie will take me at all eh?". So I am not at all sure that the threat of a transfer to Barlinnie was a particular source of concern to Mr Currie when he killed himself, and in any event I do not think that it would have been reasonable to expect the management of H M Prison, Inverness, to have excluded this possibility altogether in Mr Currie's case.

[22] Referring to section 6(1)(d) of the Act, counsel for Mrs Currie submitted that there were two defects in the system of working at H M Prison, Inverness, which contributed to Mr Currie's death. The first of these, according to counsel, was "the failure, at any time after 9 August 2004, to activate the ACT and Care Strategy which was available for vulnerable prisoners such as Scott Currie despite repeated expressions of concern that he might be at risk of suicide or self-harm". Taking a narrow view of this submission, I think that it is important to distinguish between the

ACT Suicide Risk Management Strategy then in place on the one hand and, on the other, its implementation in the case of Mr Currie. In this context the ACT Strategy was the system of working and, if there was a defect here at all, it was in the implementation of the strategy rather than in the strategy itself. Accordingly I do not consider that it can be said that there was here a defect in the system of working in the prison which contributed to Mr Currie's death.

[23] In any event, even if there was a failure to activate the ACT Strategy after 9 August 2004 and even if this did constitute a defect in the system of working in the prison, I am not satisfied that it contributed to Mr Currie's death. The position here is essentially the same as in the case of counsel's submission that a reasonable precaution whereby Mr Currie's death might have been avoided would have been to put in place for him an individualised package of care under the ACT Strategy. Again it may be asked what practical difference it would have made to the care which Mr Currie was already receiving in a variety of ways and from a variety of sources if the ACT Strategy had been activated in respect of him at any time after 9 August 2004. He would no doubt have attended a succession of case conferences, but it is not clear to me how this would have reduced the likelihood of his deciding to take his own life, in particular if he was going to persist in concealing the truth as he appears to have done at the ACT case conference on 9 September 2004.

[24] On this last point I can readily understand why it should be maintained, with the benefit of hindsight, that Mrs Currie ought to have been consulted before this particular case conference if not actually invited to attend it. But one is left wondering how matters would have turned out if either of these courses had been taken. What, for example, would have happened at the case conference, and what would have been the effect upon Mr Currie, if he had persisted in his denial that he had tried to hang himself with his belt the previous evening and Mrs Currie had at the same time stoutly (and correctly) maintained that he had admitted to her that this was what he had done and that he had the marks on his neck to prove it? Here, as in so many other aspects of this case, one can only speculate. If, as a result of Mrs Currie's attendance at the case conference, he had been assessed as being at high risk of suicide, he might perhaps have been placed in an anti-ligature cell. But plainly he could not have been left to languish there for any length of time, and even in the short term this was not a measure that he wanted or needed. If he had been assessed as being at low risk of suicide, again he might have been placed inappropriately in an anti-ligature cell. Alternatively he might have been allowed to remain in his cell with Mr Leith or moved to another cell on the ground floor near the prison officers' station in B Hall. The chances are that he would have been seen by Dr Hay on 13 September 2004, if not sooner after the incident on 8 September 2004. But again one is left wondering in what way any package of aftercare that might have been devised for him thereafter would have differed from, let alone been an improvement on, the extensive care and support that he was already enjoying within the prison.

[25] Counsel for Mrs Currie submitted that a further defect in the system of working which contributed to Mr Currie's death had been the "failure to provide adequate co-ordination and information sharing between the different professionals involved with Scott Currie while he was in custody". I can readily understand why it is preferable that all those within a prison establishment who are involved in one way or another

with a vulnerable prisoner such as Mr Currie should share information about him and co-ordinate their activities in relation to him. This, as I understand it, is the rationale which underpins the Multi Disciplinary Mental Health Teams which have now been set up in most, if not all, prison establishments maintained by the SPS. But again it may be asked what practical difference the existence of a Multi Disciplinary Mental Health Team or the like at H M Prison, Inverness, would have made to the outcome of Mr Currie's case. No doubt it would have meant, for example, that those present at the case conference on 13 September 2004 would have known of the events of 9 September 2004 and also that there would have been others (such as residential and managerial staff and one or other of the prison chaplains) present at that later case conference in addition to the medical and nursing staff. But, even if it be said that there was here a defect in the prison's system of working in relation to Mr Currie, it is very difficult to see how this can be said to have contributed to his death.

[26] Plainly society as a whole has a duty to take all reasonable care of prisoners and in particular, in this context, prisoners who are for one reason or another vulnerable and/or at risk of suicide or self-harm. As the agents of society the Scottish Prison Service has the responsibility of discharging this duty in practice and in the Suicide Risk Management Strategy which was in place when Mr Currie was incarcerated the management of the SPS had quite rightly set very high standards to which staff at all levels were to aspire in caring for prisoners such as Mr Currie. I say "quite rightly" here in view of the duty on society as a whole which I have already identified. But it should not be forgotten that it is also in the interests of the staff of the SPS themselves wherever practicable to prevent the suicide of a prisoner since such a suicide may be expected (as the evidence at this inquiry demonstrated) to be very distressing for those members of the prison staff most immediately involved and to have an adverse effect on the morale of the prison community as a whole. Moreover, a fatal accident inquiry is, again quite rightly, an inevitable consequence in Scotland of a death in legal custody and the evidence in this case demonstrated how upsetting it may be for a prison officer to have to appear as a witness at such an inquiry. Here it will be recalled that Mr Masterton in particular was visibly distressed at one point in his evidence, and in addition there was evidence that one the prison officers who had given evidence may have been so stressed as a result that he or she had had to take time off work.

[27] With all the benefit of hindsight and the opportunity afforded by the leisurely progress of a lengthy fatal accident inquiry for a microscopic examination of both witnesses and documents, it is easy to say that in certain respects the staff of H M Prison, Inverness, did not match up to the high standards set by the Suicide Risk Management Strategy, and in particular to point to boxes not ticked, forms not completed as fully as they might have been and processes not followed to the letter of the ACT procedure. Indeed the Governor himself very properly acknowledged that there had been "glaring deficiencies" in some of the documentation. Lessons have evidently been learned already as a result of Mr Currie's case and it is reassuring to know that the SPS continues to strive towards "ensuring the best possible care for those within prisons" (to borrow the language of the Chief Executive of the SPS in his Introduction to the Suicide Risk Management Strategy in place at the time of Mr Currie's death).

[28] But in concentrating so much on the duty of the staff of the SPS to take all reasonable care to prevent the suicide of a prisoner there may be a danger (and I certainly thought that there was such a danger during this particular inquiry) of losing sight of the fundamental point that, notwithstanding the fact of his imprisonment, a prisoner remains an autonomous human being and retains the ultimate responsibility (within the constraints of the prison system) to take care for his own life. Thus, as has already been remarked, during the telephone conversation on 19 September 2004 Mrs Currie quite rightly reminded Mr Currie (at page 8 of the transcript) of his responsibility to himself, and it will not do in my opinion to dwell at length on actual or perceived failures on the part of the staff of H M Prison, Inverness, and at the same time to overlook the actions, and his ultimate responsibility for what happened, of Mr Currie himself. I say this in particular in light of all the support which, while it may not always have been documented as carefully (if at all) as it might have been, Mr Currie did in fact receive from many sources while he was in H M Prison, Inverness, including the medical and nursing staff, the prison officers, the chaplains, his own family minister, his cell mate and other prisoners and of course his wife and other members of his family.

[29] At the end of the day I think that it has to be affirmed clearly and unambiguously that it has not been established that Mr Currie's death was the result of anything said or done, or left unsaid or undone, on the part of the staff of H M Prison, Inverness. The reason Mr Currie died was that, while of sound mind, he determined to take his own life and proceeded to do so when the opportunity presented itself. Exactly why he should have done so must forever remain uncertain, but in my opinion the most likely explanation has to be that he was overcome, firstly, by the acute personal distress which he evidently experienced at finding himself in prison and, secondly, by the burden of guilt which he felt on account of his responsibility for both the deaths of three other people in the road traffic accident and the strain which the fact of his imprisonment had thrust upon his wife and young family. If it occurred to him that his death might only make matters worse for his family (and he was frequently reminded of his responsibilities to them), this was evidently not enough to dissuade him from his suicidal course of action.

[30] I should perhaps add a few more observations about the telephone conversation between Mr and Mrs Currie on 19 September 2004. Rightly or wrongly, I had the impression in the early stages of the inquiry that the parties were anxious to gloss over its significance in order to avoid causing needless distress to Mrs Currie and other members of Mr Currie's family. However laudable this aspiration may have been, I think that it was mistaken since in an inquiry such as this it is essential that all the material evidence should be put before the court, and there is no doubt in my mind that the telephone call was a material piece of evidence in that it shed light on what might have been going through Mr Currie's mind on the night before he killed himself. So I think that it was right that the tape of the conversation should eventually have been played at the inquiry (and of course I have had an opportunity to listen to it again while preparing this determination).

[31] In the SPS Internal Review into the circumstances of Mr Currie's death it was stated at paragraph 6.2 that "Mrs Currie clearly states in the conversation on a number of occasions that she was considering separation from her husband and that he had to sort things out on his own". It is not in dispute that this is not an accurate

statement, and I have already sought to explain what Mrs Currie did say on this aspect of the matter. Regret on the part of those who survive the death of a loved one is perhaps inevitable, and it may be that Mrs Currie now regrets some of the things that she said to Mr Currie during this conversation. But his having caused the deaths of three other people and having been sentenced as a result of a period imprisonment had, as has already been observed, imposed a considerable strain on Mrs Currie and their young family and it is quite understandable that she should during the conversation have expressed her thoughts about this state of affairs as explicitly as she did. So, while she may now regret what happened during this telephone call, in my opinion she should on no account think of herself as a scapegoat or reproach or blame herself for anything that she said during the conversation, nor should anyone else do so.

[32] In this last context I can see the force of the argument that it was this last telephone call between Mr and Mrs Currie that tipped him over from thoughts of suicide (which had been present on and off since before his imprisonment and for which she was certainly not responsible) to suicidal intent. But I hope that it may be of some comfort to Mrs Currie to say that I am by no means convinced that this was in fact the case. It seems to me that the evidence is just as consistent with the view suggested by Dr Hay that Mr Currie made up his mind to kill himself when the opportunity presented itself at some stage during the week before his death, perhaps on the Wednesday evening when he had the spiritual experience which he described the next day to the chaplain Mr Robertson. This would be consistent with the "aura" or "serenity" that Mr Leith observed about Mr Currie on the Thursday evening and his statement that he felt so content and his subsequent cheerfulness through to the Sunday night. Again there is the curious fact that, when he went into the work shed on the morning of 20 September 2004, and even as late as when he entered the staff toilet, Mr Currie cannot have known that he would there and then find a ready opportunity to kill himself. So it may be that it was only at that point that he decided, essentially on the spur of the moment, to kill himself. In truth, as Dr Hay rightly said, "We do not know".

[33] Mrs Currie was evidently troubled that Mr Currie had been allowed to have his belt after she had brought it in to the prison for him, or to retain it after the incident on 8 September 2004. I can understand her concern, but I do not share it. It may be that, if the true facts about the incident on 8 September 2004 had come to light at the case conference on 9 September 2004, Mr Currie might have had his belt taken away for a short time. But it was important to preserve his self-respect and dignity and important too that he should be assimilated as far as possible as a normal prisoner into the normal prison regime. So I should have thought that it would have been quite likely that his belt would have been restored to him fairly soon, and probably before 20 September 2004. In any event, there were plenty of other objects which he might just as well have used to hang himself such as an item of clothing or bedding, his shoe laces or the flex of his radio.

[34] There was a good deal of evidence from the officers at H M Prison, Inverness, to the effect that Mr Currie would not have been allowed into the work shed if he had been subject to the ACT procedure. But there was other evidence that it might have been a part of a package of care for Mr Currie under the ACT procedure that he should go to the work shed. This was what he wanted to happen, and it was plainly

in his interests that it should happen given that what he needed was as much varied and useful activity as possible to occupy his mind and help him settle into the regime of life in prison. (Indeed, if there was a criticism to be made here, then arguably it might be that he had not been sent to the work shed before 20 September 2004). So I am not much impressed by the complaint that, if he had been subject to the ACT procedure on 20 September 2004, then he would not have had the opportunity that day to kill himself. In any event it seems to me that the most that can be said here is that he would not have had the opportunity to kill himself at that particular time in that particular location. Sooner or later it was more or less inevitable that he would end up in the work shed. Besides, there would have been plenty of scope for him to kill himself elsewhere in the prison - and here it will be recalled that there was evidence that most prison suicides occur in the prisoner's cell.

[35] I can appreciate the sense of impotence and frustration which was evidently felt by Mrs Currie, and indeed also other adult members of Mr Currie's family, as they observed his distress in prison and at the same time found themselves able to do so little towards alleviating this distress or the consequence to which it ultimately led. I can appreciate too that Mrs Currie may have felt let down by the staff at H M Prison, Inverness, in that she felt that her concerns for Mr Currie were not being heard and translated into action which would have prevented Mr Currie's suicide. So it is not altogether surprising that the search should have been made among those still living for persons at whom the finger of blame for Mr Currie's death might be pointed, collectively if not individually. By their actions or inactions, in particular in implementing the ACT procedure, the staff at H M Prison, Inverness, may in certain respects be said, again with the benefit of hindsight, to have made themselves easy targets. But I would reiterate that, notwithstanding any shortcomings that there were on their part, the responsibility for Mr Currie's death lay, not with them, but with Mr Currie himself.

[36] In conclusion, I should say that I am surprised that the social enquiry report which was prepared in anticipation of Mr Currie's appearance before the High Court of Justiciary on 28 July 2004 was not apparently sent to H M Prison, Barlinnie, along with the warrant for his imprisonment. I had hitherto always understood that it was the responsibility of the clerk of court to arrange for social enquiry and psychiatric reports upon a prisoner to be sent by the court to the prison along with the warrant of imprisonment. If I am right in this, then I am unable to say why this was not apparently done in the case of Mr Currie. It is not uncommon in my experience to find in the body of such a report a warning that a prisoner may be suicidal so it is important that such a report should be sent to the receiving prison. I shall draw the attention of the Chief Executive of the Scottish Court Service to this particular paragraph so that the matter may be pursued if this is thought appropriate.