

SHERIFFDOM OF GRAMPIAN HIGHLAND AND ISLANDS AT ABERDEEN

[2022] FAI 4

ABE-B253-21

DETERMINATION

BY

SHERIFF ANDREW MILLER

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

into the death of

SHANIA COLLINS

Aberdeen, 14 January 2022

Determination

The sheriff, having resumed consideration of the evidence, information, joint minute of agreement and submissions presented at the Fatal Accident Inquiry into the death of Shania Collins, Determines in terms of Section 26 of the Inquiries into Fatal Accidents and Sudden Deaths Etc. (Scotland) Act 2016 (“the 2016 Ac”) that:

1) Shania Collins (“Ms Collins”) was born on 14 June 2001. At the time of her death she resided in Peterhead, Aberdeenshire. At the time of her death she was in a relationship with “Paul Wilson”¹, with whom she had a baby son, who was in the care of Aberdeenshire Council in terms of a child protection order.

¹ The name of Ms Collins’ partner has been changed to ‘Paul Wilson’ or ‘Mr Wilson’ throughout this determination in order to avoid disclosure of his true identity.

- 2) In terms of Section 26(2)(a) of the 2016 Act, the death of Ms Collins occurred at 18.30 hours on 28 December 2020 within Aberdeen Royal Infirmary, Foresterhill Health Campus, Foresterhill Road, Aberdeen, AB25 2ZN.
- 3) In terms of Section 26(2)(b) of the 2016 Act, the accident resulting in the death of Ms Collins occurred at about 11.55 hours on 22 December 2020 at the driveway of a house known as The Sycamores, Pitscow Croft, Kinninmonth, AB42 4HY.
- 4) In terms of Section 26(2)(c) of the 2016 Act, the cause of Ms Collins' death, as ascertained following a post-mortem examination on 30 December 2020 and subsequent toxicological analysis, was:
 - I(a) Global ischaemic brain injury and bronchopneumonia
 - (b) Presumed butane abuse
- 5) In terms of Section 26(2)(d) of the 2016 Act, the accident resulting in Ms Collins' death was caused by Ms Collins' actions in inhaling a significant quantity of butane gas on 22 December 2020, prior to and during the lawful pursuit by officers of Police Scotland in a marked police vehicle of a motor vehicle driven by Paul Wilson in which she was the front seat passenger and then, when the said vehicle driven by Paul Wilson came to a halt at the end of the pursuit, exiting the vehicle and running from, attempting to strike and struggling with PC Stephen Morrison who was then in uniform and in the lawful execution of his duty.
- 6) In terms of Section 26(2)(e) of the 2016 Act, the accident which resulted in the death of Ms Collins would have been avoided had Ms Collins refrained from inhaling

butane gas on 22 December 2020 or, having inhaled butane gas, from running away from, attempting to strike and struggling with PC Morrison.

7) In terms of Section 26(2)(f) of the 2016 Act, no defects in any system of working contributed to the death of Ms Collins or to the accident resulting in her death.

8) In terms of Section 26(2)(g) of the 2016 Act, no other facts are relevant to the circumstances of Ms Collins' death.

Recommendations

I have no recommendations to make in terms of Section 26(1)(b) of the 2016 Act.

NOTE

Shania Collins

[1] Shania Collins was born on 14 June 2001. At the time of her death she was 19 years old and resided in Peterhead, Aberdeenshire. She was unmarried but was in a relationship with "Paul Wilson," with whom she had a baby son, who was under the care of Aberdeenshire Council in terms of a child protection order.

[2] Ms Collins had a history of low mood, drug misuse and self-harm. She took drug overdoses on 16 August 2020 and 28 November 2020. She was not on any prescribed medication at the time of the incident which resulted in her death.

[3] I offer the sincere condolences of the court to Ms Collins' family on her untimely death.

Relevant procedural history

[4] The First Notice of this Inquiry in terms of Section 15(1) of the 2016 Act was lodged by the Crown on 16 June 2021.

[5] The court's First Order in terms of Section 15(3) of the 2016 Act, reflecting prior discussions between the court and the Crown, was issued on 17 June 2021 and assigned both the Inquiry hearing, for 14 December 2021, and a preliminary hearing for 11 August 2021. Preliminary hearings were held on 11 August and 6 October 2021. The Inquiry then proceeded as originally ordered on 14 December 2021.

[6] The Inquiry hearing was conducted by remote link, via the Cisco Webex platform. The only participants were the Crown, represented by Ms Sun, Procurator Fiscal Depute, and the Chief Constable of Police Scotland, represented by Ms Leslie, Solicitor.

[7] Ms Collins' family chose not to participate in the Inquiry proceedings. Ms Sun advised me at both preliminary hearings of the steps taken by the Crown to engage with Ms Collins' family, whereby the family were made aware of their entitlement to observe the proceedings, even if they did not wish to formally participate. I was advised that, during a telephone call with a representative of the Crown in April 2021, Ms Collins' mother made it clear that she did not want a Fatal Accident Inquiry to be held, that she had no complaints about the conduct of the police officers involved in the events leading to Ms Collins' terminal collapse and that she was grateful for the attempts made by police officers to assist her daughter. Ms Collins' mother expressed similar sentiments during a further telephone call with a representative of the Crown in early October 2021.

[8] The Sheriff Clerk also made unsuccessful efforts to contact Ms Collins' mother in advance of the Inquiry hearing on 14 December 2021, using contact details provided by the Crown, in order to offer facilities to enable the family to observe the Inquiry hearing.

[9] It was clear from an early stage that there was unlikely to be any dispute between the Crown and the Chief Constable with regard to the circumstances surrounding Ms Collins' death or with regard to the findings which the court might be asked to make in its determination. However, at the preliminary hearing on 11 August 2021 I ordained the Crown in terms of Section 20(2) of the 2016 Act to obtain and lodge a supplementary statement from the forensic pathologist, Dr McNamee, who conducted the post-mortem examination and, at the preliminary hearing on 6 October 2021, I requested that the Crown call PC Stephen Morrison, the officer who was in the process of arresting Ms Collins at the time of her terminal collapse, as a witness at the Inquiry hearing.

[10] PC Morrison was the only witness called to give evidence at the Inquiry hearing. Otherwise the whole surrounding facts were agreed in terms of a comprehensive joint minute of agreement. I am grateful to Ms Sun and Ms Leslie for the steps taken by them to identify the extensive subject matter for inclusion in the joint minute, which was of great assistance to the court.

The Legal Framework

[11] Sections 1 and 2 of the 2016 Act are in the following terms:

"1 Inquiries under this Act

- (1) Where an inquiry is to be held into the death of a person in accordance with Sections 2 to 7, the procurator fiscal must –
 - (a) Investigate the circumstances of the death, and
 - (b) Arrange for the inquiry to be held.
- (2) An inquiry is to be conducted by a sheriff.
- (3) The purpose of an inquiry is to –
 - (a) Establish the circumstances of the death, and
 - (b) Consider what steps (if any) might be taken to prevent other deaths in similar circumstances.
- (4) But it is not the purpose of an inquiry to establish civil or criminal liability.

...

2 Mandatory inquiries

- (1) An inquiry is to be held into the death of a person which –
 - (a) Occurred in Scotland, and
 - (b) Is within subsections (3) or (4).
- ...
- (3) The death of a person is within this subsection if the death was the result of an accident which occurred—
 - (a) in Scotland, and
 - (b) while the person was acting in the course of the person's employment or occupation.
- (4) The death of a person is within this subsection if, at the time of death, the person was—
 - (a) in legal custody, or
 - (b) a child required to be kept or detained in secure accommodation.

- (5) For the purposes of subsection (4)(a), a person is in legal custody if the person is—
- (a) required to be imprisoned or detained in a penal institution,
 - (b) in police custody, within the meaning of section 64 of the Criminal Justice (Scotland) Act 2016,
 - (c) otherwise held in custody on court premises,
 - (d) required to be detained in service custody premises.

...”

[12] Section 64 of the Criminal Justice (Scotland) Act 2016 provides as follows:

- “(1) For the purposes of this Part, a person is in police custody from the time the person is arrested by a constable until any one of the events mentioned in subsection (2) occurs.
- (2) The events are—
- (a) the person is released from custody,
 - (b) the person is brought before a court in accordance with section 21(2),
 - (c) the person is brought before a court under section 28(2) or (3) of the 1995 Act,
 - (ca) the person is brought before a court in accordance with—
 - (i) any other enactment or rule of law which requires that a person in custody be brought before a court, or
 - (ii) a term of the warrant under which the person was arrested,
 - (cb) the person is transferred in accordance with the law into the custody of a person who is neither —
 - (i) a constable, nor
 - (ii) a member of police staff appointed under section 26(1) of the Police and Fire Reform (Scotland) Act 2012,
 - (d) the Principal Reporter makes a direction under section 65(2)(b) of the Children's Hearings (Scotland) Act 2011 that the person continue to be kept in a place of safety.”

[13] The specific matters to be determined by the court are set out in Section 26 of the 2016 Act, which is in the following terms:

“26 The sheriff’s determination

- (1) As soon as possible after the conclusion of the evidence and submissions in an inquiry, the sheriff must make a determination setting out –
 - (a) In relation to the death to which the inquiry relates, the sheriff’s findings as to the circumstances mentioned in subsection (2), and
 - (b) Such recommendations (if any) as to any of the matters mentioned in subsection (4) as the sheriff considers appropriate.
- (2) The circumstances referred to in subsection (1)(a) are –
 - (a) When and where the death occurred,
 - (b) When and where any accident resulting in the death occurred,
 - (c) The cause or causes of the death,
 - (d) The cause or causes of any accident resulting in the death,
 - (e) Any precautions which –
 - (i) Could reasonably have been taken, and
 - (ii) Had they been taken, might realistically have resulted in the death, or any accident resulting in the death, being avoided,
 - (f) Any defects in any system of working which contributed to the death or any accident resulting in the death,
 - (g) Any other facts which are relevant to the circumstances of the death.
- (3) For the purposes of subsection (2)(e) and (f), it does not matter whether it was foreseeable before the death or accident that the death or accident might occur –
 - (a) If the precautions were not taken, or
 - (b) As the case may be, as a result of the defects.
- (4) The matters referred to in subsection (1)(b) are –
 - (a) The taking of reasonable precautions,
 - (b) The making of improvements to any system of working,

- (c) The introduction of a system of working,
- (d) The taking of any other steps,

which might realistically prevent other deaths in similar circumstances,

- (5) A recommendation under subsection (1)(b) may (but need not) be addressed to –
 - (a) A participant in the inquiry,
 - (b) A body or office-holder appearing to the sheriff to have an interest in the prevention of deaths in similar circumstances.
- (6) A determination is not admissible in evidence, and may not be founded on, in any judicial proceedings of any nature.”

[14] In terms of section 1(3) and (4) of the 2016 Act, the purpose of a Fatal Accident Inquiry is to establish the circumstances of the death and to consider what steps (if any) might be taken to prevent other deaths in similar circumstances, but not to establish civil or criminal liability or blame. It is an inquisitorial, as opposed to an adversarial, process, in which the Procurator Fiscal represents the public interest.

[15] The 2016 Act does not contain a definition of the term “accident” for these purposes. However it appears to have been accepted² that, for the purposes of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976, which was the legislation which regulated Fatal Accident Inquiries until the enactment of the 2016 Act:

“...[T]he term ‘accident’ [was] capable of a very wide interpretation; almost any untoward occurrence [could] be described as an accident.”

[16] I can see no reason to depart from that approach in relation to the Fatal Accident Inquiry into the death of Ms Collins.

² Macphail, *Sheriff Court Practice*, 3rd Edition, paragraph 28.15

[17] It will be noted that Section 2(4)(a) of the 2016 Act requires a mandatory Fatal Accident Inquiry to be held where, "... **at the time of the death**, the person was in legal custody" (emphasis added). This can be contrasted with Section 2(3)(b) of the Act, which requires a mandatory Inquiry to be held where "... the death was the result of **an accident** which occurred ... while the person was acting in the course of the person's employment or occupation" (emphasis added).

[18] Although Ms Collins died in hospital, this Inquiry was treated by the Crown and by the Chief Constable from the outset as mandatory in terms of Section 2(4)(a) of the 2016 Act. As described in the note which follows, Ms Collins' death resulted from a cardiac arrest which occurred when she was in the process of being arrested by a police officer at about 11.55 hours on 22 December 2020. Having become unconscious at that time, Ms Collins was provided with appropriate first aid and medical care and then taken directly to Aberdeen Royal Infirmary, where she remained until her death on 28 December 2020.

[19] It appears therefore that the Inquiry was treated as mandatory on the basis that Ms Collins was still regarded as being in police custody at the time of her death. This was the Crown's position in the First Notice and in the Crown's outline submissions lodged in advance of the Inquiry hearing. This approach was not contested by the Chief Constable. I assume that it depended on the interaction of Section 2(5)(b) of the 2016 Act ("police custody" as a form of "legal custody" for these purposes) and Section 64 of the Police (Scotland) Act 2016 (the matters which may constitute "police custody" for these purposes).

[20] In the absence of any dispute about this issue I did not require to decide whether Ms Collins was in police custody, within the meaning of the relevant statutory provisions, at the time of her death.

Summary of evidence relevant to the determination

Background

[21] Ms Collins had a history of low mood, was previously prescribed antidepressants and had documented drug misuse (cannabis). She had taken drug overdoses on 16 August 2020 and 28 November 2020 and had self-harmed on 18 May 2019. At the time of her death she was not prescribed any medication.

[22] Ms Collins was in a relationship with “Paul Wilson” (“Mr Wilson”), with whom she had a baby son, who was under the care of Aberdeenshire Council in terms of a child protection order.

[23] On Tuesday 22 December 2020, Ms Collins and Mr Wilson were due to have a supervised contact visit with their son which had been arranged for 11:00 hours. Ms Collins and Mr Wilson were to attend the contact location at 10:30 hours in order that their condition and suitability for contact could be assessed by social work in advance of the visit, following prior concerns about their lifestyles and use of substances. When they failed to attend, a social worker attempted to contact Ms Collins by phone a number of times, without success. Then just before 11:00 hours Ms Collins answered her phone. During the ensuing call, Ms Collins appeared to be under the

influence of something and was verbally abusive. She ended the call after telling a social worker to "Just put [her son] up for adoption."

[24] Following that telephone conversation, Ms Collins and Mr Wilson, having both already inhaled butane gas that morning, went out in Mr Wilson's vehicle. They drove to Fraserburgh then towards Peterhead, with Mr Wilson driving and Ms Collins sitting in the front passenger seat. There were no other occupants of the car. Ms Collins appeared to be upset and emotional about not seeing her son but displayed no apparent medical issues at that time. During the journey Ms Collins was "high" and excited. She inhaled more butane gas and drank some whisky from a bottle in the car.

[25] At about 11:25 hours PCs Stephen Morrison and David Robb were on uniformed mobile patrol in a marked road policing vehicle driven by PC Robb on the A90 near to Crimond, Aberdeenshire. The officers saw Mr Wilson's vehicle travelling in the opposite direction on the A90. The Automatic Number Plate Recognition System (ANPR) on board the police car identified Mr Wilson's car as used by a known disqualified driver. The officers were aware that Mr Wilson was a disqualified driver and had reason to believe that the driver of the vehicle would be either Mr Wilson or another particular individual whose name was known to them. The ANPR "hit" also identified the vehicle as one which was used by a known drink-driver and further checks carried out by the officers quickly revealed that the vehicle was not covered by any motor insurance policy.

[26] PC Robb turned the police car and attempted to stop Mr Wilson's vehicle by activating the blue lights and sirens on their vehicle. Mr Wilson failed to stop his vehicle

and drove on. At 11:31 hours PCs Morrison and Robb contacted the Area Control Room (ACR), and a vehicle pursuit was authorised and commenced.

Vehicle Pursuit

[27] Mr Wilson's vehicle continued south through the village of St Fergus at 30-40mph (the speed limit being 40mph) before speeding up to 50mph upon leaving the village. It continued on A90 before turning right and heading towards the village of Rora. The vehicle continued on this road at 40-50mph, slowing for cyclists and pedestrians. Once out of Rora the vehicle turned left towards Cuttyhill. At 11:48 hours PCs Morrison and Robb reported that they had lost sight of the vehicle near the village of Rora as the vehicle turned towards Cuttyhill, before taking a right turn along a farm track in the direction of the village of Hythie. PC Robb slowed the police vehicle due to the condition of the track and the risk of damage to the police vehicle, and the other vehicle was lost to view as it continue along the track.

[28] According to PC Morrison's evidence, he and PC Robb made their way on the public road to the point at which they believed that Mr Wilson's vehicle may have emerged from the farm track. However it did not do so. They made their way back to where they had last seen the vehicle and searched the surrounding area. At 11:55 hours they traced Mr Wilson's vehicle parked "nose-in" at the driveway of a house known as "The Sycamores", Pitscow Croft, near the village of Kinninmonth. Neither Mr Wilson nor Ms Collins had any connection with this property.

[29] Although the pursuit had lasted around 25 minutes and had covered a distance of around 27 miles, PC Morrison's evidence was that it was not a high speed pursuit. The speed limits of the roads covered ranged from 30 mph to 60 mph but according to PC Morrison's evidence Mr Wilson's vehicle did not appear to exceed the speed limit at any stage. The duration of the pursuit reflected the rural nature of the roads, which made it impossible for the police vehicle to safely overtake Mr Wilson's vehicle and force it to stop, along with the risk of damage to the police vehicle from some of the roads travelled.

[30] During the pursuit the officers had been able to see that the driver of the other vehicle was male, but had not been able to establish his identity, and had been unaware that there was a passenger.

[31] When PC Robb stopped the police vehicle behind Mr Wilson's vehicle, Mr Wilson exited the driver's door of his vehicle and ran off. He was pursued for a short distance by both officers before being apprehended and arrested by PC Robb. At this time Ms Collins was still in the front passenger seat of Mr Wilson's vehicle.

[32] According to Mr Wilson's first statement to police officers, given on the evening of 22 December 2020, Ms Collins last inhaled butane "literally seconds" before Mr Wilson got out of his vehicle and was arrested, which in turn was a very short time before Ms Collins was apprehended by PC Morrison.

[33] In a later statement given by Mr Wilson on 12 February 2021, he stated that, during the vehicle pursuit:

“... Shania was excited due to the events of the 22nd of December 2020. This was due to her arguing with the Social Work Department then not getting a visit to see our son. We were then in a car being chased by the Police and Shania was aware that I was a disqualified driver and that if caught I would be arrested and would go to prison. It was a strange situation it was like a last hurrah as we thought we would not see each other for a while and she was taking the gas quicker than usual and drinking whisky at the same time.”

The arrest of Ms Collins

[34] PC Morrison made his way towards the driver's door of Mr Wilson's vehicle. He leaned into the vehicle, turned off the ignition, which Mr Wilson had left running, and removed the keys. At that point Ms Collins exited the vehicle via the front passenger door and ran off.

[35] PC Morrison ran after Ms Collins for about 10 metres. During this brief pursuit, whilst PC Morrison was behind her, Ms Collins turned and threw something at him which he later saw was a butane gas canister. She then began to kick out at PC Morrison's legs and to “wave her arms” towards him. In the process she lost her balance and fell to the ground, which PC Morrison attributed to the rough ground underfoot. PC Morrison had not laid hands on her prior to her falling to the ground, although he had attempted unsuccessfully to grab her arm to stop her falling.

[36] PC Morrison's evidence was that he had not initially recognised Ms Collins, but that when she turned round towards him he did recognise her as Mr Wilson's partner, whom he knew from previous involvement as Shania Collins.

[37] Having fallen to the ground Ms Collins was on her back. She continued to kick out at PC Morrison. He took hold of her left arm and turned her onto her front with the

intention of handcuffing her. Ms Collins continued to struggle and try to kick him.

PC Morrison gave evidence that, whilst holding her left arm as she lay on her front, he “kind of straddled” Ms Collins in order to stop her from kicking him. At this point he spoke to her and said: “That was a silly thing to do.” Ms Collins did not respond verbally, but put her right arm behind her back, which PC Morrison took as an indicating that she was giving up her struggle and waiting to be handcuffed.

PC Morrison handcuffed Ms Collins to the rear and said “Come on, get up.” Ms Collins did not respond to this instruction.

[38] PC Morrison’s evidence was that he initially thought that, at this point, Ms Collins was feigning unconsciousness. He rolled her onto her side and immediately noted that her eyes were wide open, her pupils were dilated and that she appeared drowsy, though breathing. He thought then that she might be under the influence of drugs or some other substance. He immediately placed Ms Collins into the recovery position, removed the handcuffs from her and requested via radio that the ACR summon an ambulance. Crown Production No. 1 “Police Scotland STORM Incident” confirms that an ambulance was requested at 11:58:07 hours, with an associated explanatory note: “Female heavily under the influence of something.”

[39] PC Morrison did not have the opportunity to inform Ms Collins that she was under arrest prior to her becoming unwell.

[40] A witness who was within the neighbouring property at the time heard the sound of a car being driven into the driveway of The Sycamores. A few minutes later the witness heard voices which he did not recognise and he looked over the dividing

fence between the two properties. He saw Mr Wilson's vehicle with a police car parked behind it. He saw a male being restrained on the ground by a male police officer who was trying to handcuff him. He then saw a female exit the front passenger door of Mr Wilson's vehicle, a male police officer approach her and the female lash out at him a number of times, either punching or pushing the officer and kicking out at him with her right foot. The female then went to ground, either because she fell or because she was brought to the ground by the officer. The officer remained on his feet and the witness saw him bend over the female.

[41] Another witness was driving towards "The Sycamores" when she saw the police vehicle parked in the driveway. She parked a short distance away and walked towards the police vehicle. She saw a male in handcuffs standing with a male police officer and then noticed a female lying on the ground on her side with a police officer kneeling beside her. In her subsequent statement she described the male officer as shaking the female by her upper arm as if trying to get a response. She then saw other officers arrive at the scene.

Police vehicle dashcam images

[42] Relevant, but not comprehensive, video images were captured on the dashcam of the police vehicle. The physical interactions between PC Morrison and Ms Collins happen off-camera, but some fragments are visible in the reflection provided by the wing mirror of the front passenger door of Mr Wilson's vehicle.

[43] The following is a summary of the contents of the dashcam footage:

- 11:55:12: the police vehicle comes to a halt behind Mr Wilson's vehicle as it enters the driveway of "The Sycamores;"
- 11:55:17: Mr Wilson opens the driver's door of his vehicle. The area outside the driver's door of the car is not captured on the dashcam footage due to the positions of the vehicles. A female can be seen moving about in the front passenger seat of Mr Wilson's vehicle.
- 11:55:32: Ms Collins opens the front passenger door of his vehicle and quickly makes off. She has a gas canister in her right hand.
- 11:55:35: PC Morrison comes into view, passes across the front of Mr Wilson's vehicle from the driver's side to the passenger side and makes his way in the direction Ms Collins has run. As he passes the passenger side of the vehicle he is seen to lift both his arms in front of himself as though reaching out.
- 11:55:37: Ms Collins comes briefly into sight in the front passenger door mirror of Mr Wilson's vehicle. PC Morrison is seen close behind her. The images do not show whether he makes physical contact with Ms Collins. Ms Collins appears to go to the ground with PC Morrison standing upright but bent over facing towards the ground. Ms Collins is out of sight but PC Morrison's movements suggest that a struggle of some kind is taking place.
- 11:55:40: PC Morrison goes out of sight. At this point it would appear that both Ms Collins and PC Morrison are below the level of the door

mirror of Mr Wilson's vehicle. Nothing further is captured on the dashcam footage.

Medical Intervention by police officers

[44] At around 12:02 hours PCs Stuart Lawrence and Mark Stewart arrived at the locus together with PCs Michael Kelman, James Stephen and Hayley Stephens. They found Ms Collins, who was not handcuffed at the time, being attended to by PC Morrison. She was breathing but unresponsive. PC Stephens searched Ms Collins for any identification or anything that would indicate what was wrong with her.

[45] Whilst being monitored by the officers Ms Collins appeared to stop breathing and PCs Morrison and Stephens started CPR. PC Morrison called to the other officers to bring a defibrillator from one of the police vehicles. PC Stewart attached the defibrillator and delivered a shock, as instructed by the device. The defibrillator instructed that CPR be continued but that no further shocks were required. PCs Stewart, Morrison and Lawrence continued CPR, taking over from each other as necessary, until the arrival of the first Ambulance crew.

Medical Intervention by ambulance crews

[46] Paramedic Peter Crawford and Ambulance Technician Ashleigh Inness arrived at the scene at approximately 12:20 hours, according to Crown Production No. 1 "Police Scotland STORM Incident." They found the police officers performing CPR on Ms Collins. They examined Ms Collins and applied an "OPA" device to keep her

airway open and a “bag valve mask” to breathe for her, whilst the police officers continued CPR.

[47] Paramedic Richard Chalk and Ambulance Technician Erin Kilkerr attended at 12:36 hours. The ambulance crews provided Advanced Life Support (“ALS”). This included providing intravenous adrenaline. The ALS provided resulted in a return of spontaneous circulation.

[48] Ms Collins was then conveyed by ambulance to Aberdeen Royal Infirmary with a police escort, provided by PCs Robb and Morrison.

Medical Intervention at Aberdeen Royal Infirmary

[49] Ms Collins arrived at Aberdeen Royal Infirmary at 13:28 hours on 22 December 2020. She was found to have suffered a cardiac arrest. She was intubated and had a CT head scan which showed that she had changes consistent with a hypoxic-ischaemic encephalopathy and diffuse cerebral oedema.

[50] Ms Collins was admitted to the Critical Care Unit where she was sedated and had ventilation controlled to provide neuroprotection. Tests disclosed the presence of alcohol in her blood. A urine screen for drugs of abuse was negative.

[51] Between 22 and 27 December 2020, Ms Collins remained within the Critical Care Unit receiving treatment with tests providing evidence of “hypoxic brain insult,” which appeared to progress over time.

[52] On 28 December 2020, Dr Ian Scott, a Consultant in Critical Care at Aberdeen Royal Infirmary, reviewed Ms Collins and formed the opinion that there was no

prospect of recovery. CT scans demonstrated irreversible hypoxic brain damage.

Dr Scott considered that ventilator support should be withdrawn. After discussion with Ms Collins' family he instructed that the ventilator support be withdrawn.

[53] The death of Ms Collins was confirmed at 18:30 hours on 28 December 2020.

Post Mortem examination and related matters

[54] Pathologist Dr Tamara McNamee carried out a post mortem examination of Ms Collins on 30 December 2020 at Aberdeen Mortuary, Aberdeen, and certified the interim cause of death as:

I(a) Hypoxic Brain Injury (Clinical Diagnosis)

I(b) Out of Hospital Cardiac Arrest (Pending Investigations).

[55] After further investigation, Dr McNamee concluded on 22 March 2021 that the cause of death was:

Ia: Global ischaemic brain injury and bronchopneumonia

Ib: Presumed butane abuse.

Dr McNamee's findings are set out in Crown Production No. 11 Post Mortem Report.

[56] In the Post Mortem Report, Dr McNamee stated:

"There was an area of bruising seen to the nape of the neck which did not extend into deep muscle tissue, this may be associated with injury incurred during restraint or possibly during resuscitative efforts as part of the out of hospital cardiac arrest. It is noted that the deceased was temporarily restrained with handcuffs, however, there were bruises and needle punctures seen to both wrist in keeping with medical intervention and although there was evidence of deep tissue haemorrhage in this region, it is not possible to link this to the restraint and likely represents sites of medical cannulae. There were no marks or injuries that would give cause for concern.

It is noted that the deceased had a CT diagnosis of hypoxic brain injury confirmed in life, and expert neuropathological assessment confirms the same.

...

Toxicological analyses identified broadly therapeutic concentrations of alfentanil (opiate analgesic) and paracetamol (analgesic) in blood, whilst metoclopramide (anti-emetic) was detected at a level below the limit of quantitation in blood. Due to the deceased's period of admission to hospital, these are recognised drugs of medical intervention and therefore they have not contributed to death.

Toxicological analyses for volatile gases (butane) have been performed and proved negative, however, this would be expected given the protracted interval between the time of the incident and post mortem examination.

Taking into consideration the history and circumstances surrounding death, findings at post mortem examination and laboratory investigations, death is attributed to global ischaemic brain injury and bronchopneumonia as the result of presumed butane abuse.

The history and circumstances that the deceased was said to be inhaling butane immediately prior to the incident are noted and said to have been in an excited/agitated state. Butane, a commonly recognised volatile gas which is abused through inhalation/sniffing has fatal side-effects to include central nervous system depression, respiratory depression, coma and death and cardiac arrhythmia due to sensitisation of the heart to the effects of catecholamine's. Although the deceased would have been at risk of sudden death at any time due to her butane abuse, it is recognised that in times of a hyperadrenergic state (stress, illness and physical activity) the threshold for a fatal arrhythmia is lowered."

[57] Dr McNamee provided supplementary written comments, in response to questions posed by the Procurator Fiscal, on 26 August 2021, with regard to the likely mechanism of death (Crown Production No. 16). The following propositions can be taken from Dr McNamee's supplementary comments:

- i. Butane is a volatile gas. It is well recognised that abusing butane (by sniffing or "huffing") can cause sensitisation of the heart, predisposing

the individual to an abnormal heart rhythm (cardiac arrhythmia), which can prove fatal, even in an otherwise healthy heart;

- ii. Global ischaemic brain injury is a non-specific condition which indicates a period of poor oxygen supply to the brain which can occur for a number of reasons. In this case, Dr McNamee thought that the period of reduced consciousness due to an “out of hospital” cardiac arrest resulting from a cardiac arrhythmia secondary to butane inhalation was the cause. It was not possible to definitively determine this because cardiac arrhythmia is a physiological phenomenon which cannot be evidenced at autopsy;
- iii. Post mortem examination excluded any other natural disease or acute toxicological cause to account for the “out of hospital” cardiac arrest;
- iv. On balance of probabilities, Dr McNamee felt that Ms Collins’ cardiac arrest was attributable to butane inhalation;
- v. Infection of the lungs (bronchopneumonia) can occur for a variety of reasons. In the case of Ms Collins, bronchopneumonia was a terminal complication of an ‘out of hospital’ cardiac arrest, during which time her airway was not protected due to reduced consciousness and she was at risk of aspiration of gastric contents, which could lead to bronchopneumonia. Assisted ventilation whilst in hospital is another risk factor for bronchopneumonia;

- vi. Ms Collins would not have suffered from a cardiac arrest or required hospital admission and ventilation but for complications of butane inhalation;
- vii. There is no recognised “fatal concentration” of butane toxicity. Death can occur at any time with any dose or amount inhaled. It is possible that Ms Collins could have succumbed solely due to the effects of butane inhalation, even in the absence of the police pursuit;
- viii. However it is recognised that at times of physical exertion or stress, the body exhibits a “flight or fight” response due to the release of adrenaline which can manifest physiologically as high blood pressure (hypertension) and increased heart rate (tachycardia), which can increase the risk of a fatal cardiac arrhythmia in the context of butane inhalation; and
- ix. It is possible that Ms Collins could have been in a “hyperadrenergic” state (a state of high adrenaline and, hence, stimulation) due either to physical exertion or psychological stress as a result of the police pursuit, which would have increased her risk of a fatal cardiac arrhythmia in the context of butane inhalation. Thus it is possible that the pursuit may have increased her susceptibility to a cardiac arrhythmia in the context of butane inhalation. However, the existence of a hyperadrenergic response cannot be evidenced at autopsy.

Scene Examination

[58] Examination of Mr Wilson's vehicle in situ revealed the presence of eight empty butane gas canisters and an open (three-quarters full) bottle of "Famous Grouse" whisky within the front passenger footwell and centre console of the vehicle. A further butane canister was recovered from the driver's side of the vehicle. Photographs of Mr Wilson's vehicle in situ, the area surrounding it and the interior of the vehicle are produced as Crown Productions No. 13 photographic album.

Analysis: vehicle pursuit

[59] Analysis of all available dashcam and other data regarding the vehicle pursuit establishes that the pursuit was conducted in compliance with the relevant Standard Operating Procedure relating to vehicle pursuits. No safety events were triggered. The pursuit did not involve high speeds. Both PC Robb and PC Morrison were trained advanced police drivers. The pursuit was at all times authorised by the Area Control Room.

[60] The available evidence raised no concerns with regard to the actions of PC Robb and PC Morrison in conducting the vehicle pursuit. A review of the conduct of the pursuit by Police Scotland found no issues of concern.

Analysis: police use of force and care and welfare of Ms Collins

[61] The available evidence raised no concerns with regard to the use of any excessive or inappropriate force by PC Morrison in his interaction with Ms Collins or with regard

to the appropriateness or adequacy of the response of PC Morrison or other officers to Ms Collins appearing to become unwell after she was apprehended. A review by Police Scotland of the actions of PC Morrison in apprehending Ms Collins found no issues of concern.

Submissions

[62] Both Ms Sun for the Crown and Ms Leslie for the Chief Constable had helpfully lodged outline submissions in advance of the Inquiry hearing, which they adopted when they addressed me at the conclusion of the hearing.

[63] The Crown's position was that Ms Collins' death was not caused or contributed to by any acts or omissions for which any police or medical personnel could be faulted. The police pursuit was conducted appropriately. No inappropriate force was used in apprehending Ms Collins. PCs Robb and Morrison could not have known that she had ingested butane during or prior to the pursuit of Mr Wilson's vehicle and the apprehension of Ms Collins. Ms Collins received appropriate assistance as soon it became apparent that she was unwell. She received swift and appropriate medical assistance.

[64] However, the Crown elected to make no submissions with regard to Section 26(2)(b) ("when and where any accident resulting in the death occurred") or 26(2)(d) ("the cause or causes of the accident resulting in the death") of the 2016 Act. I understood from Ms Sun that this was on the basis that the Crown's position was that there was no "accident" for the purposes of the 2016 Act and therefore that Ms Collins'

death was not the result of any accident. The Crown's express stance was to refrain from submitting that there was any link between the events in the driveway of The Sycamores and the death of Ms Collins. Having regard to Dr McNamee's observations, Ms Collins' death could have occurred at any time and thus it could not safely be concluded that her death was linked to her interactions with police officers on 20 December 2020.

[65] On behalf of the Chief Constable, Ms Leslie also submitted that Ms Collins' death was not caused or contributed to by any wrongful acts or omissions on the part of any police or medical personnel. Ms Leslie concurred with Ms Sun's analysis of the vehicle pursuit, PC Morrison's interaction with Ms Collins and the first aid and medical assistance provided to Ms Collins.

[66] Ms Leslie submitted that the "accident" resulting in the death of Ms Collins was the physical interaction between Ms Collins and PC Morrison after Ms Collins exited Mr Wilson's car. That "accident" was caused by Ms Collins' actions in running from, lashing out at and struggling with PC Morrison, against the background of her prior inhalation of butane.

Discussion and conclusions

The "accident"

[67] Having regard to the Crown's submission that there was no "accident" which could be said to have caused Ms Collins' death, I have considered that specific issue,

which is key to a number of the matters which the court is required to consider in terms of Section 26 of the 2016 Act.

[68] Having regard to the wide scope of the term “accident” for the purposes of an Inquiry under the 2016 Act, which I have already noted, and to the terms of the Post Mortem Report and Dr McNamee’s supplementary comments, it appears to me to be reasonable to proceed on the basis that the “untoward occurrence,” and hence “accident,” which ultimately resulted in Ms Collins’ death, was in fact the cardiac arrest which she, an otherwise physically healthy young woman, suffered at about 1155 hours on 20 December 2020 whilst being arrested by PC Morrison. It is clear that this cardiac arrest resulted in the brain damage which was identified at the hospital and from which she ultimately died, without regaining consciousness. The cardiac arrest suffered by Ms Collins has the character of an “accident” for these purposes since it did not arise from natural causes but rather from the conjunction of avoidable features of her own behaviour which are discussed in the following section of this note.

The cause of the fatal accident

[69] I am satisfied, having regard to the evidence of PC Morrison, the terms of the joint minute and, in particular, the opinion of Dr McNamee, that the accident which resulted in the death of Ms Collins was caused by Ms Collins’ own actions in inhaling a significant quantity of butane gas on the morning of the police pursuit of Mr Wilson’s vehicle, including during the course of and at the conclusion of that pursuit, and then, after Mr Wilson had brought his vehicle to a standstill, exiting the vehicle and running

from, attempting to strike and struggling with PC Morrison, all whilst she was experiencing a “fight or flight” or “hyperadrenergic” state, as a result of either or both of the physical exertion or psychological stress which she experienced whilst attempting to evade PC Morrison. Cardiac arrhythmia leading to cardiac arrest is a known outcome in persons who experience such a state after ingesting butane.

[70] Although Ms Collins’ ingestion of butane gas could have resulted in a fatal cardiac arrest even without her encounter with PC Morrison, the fact that she suffered a cardiac arrest only after she exited Mr Wilson’s vehicle and attempted to evade PC Morrison strongly indicates, in my view, that the cardiac arrest was the result of the interaction of the physiological effects of butane gas and the hyperadrenergic state induced by her own actions in exiting Mr Wilson’s vehicle and attempting to evade PC Morrison. The fact that the cardiac arrest happened only after Ms Collins exited Mr Wilson’s vehicle suggests in my view that it was not precipitated by the interaction of the butane she had ingested and any heightened emotional state experienced by her during the vehicle pursuit but prior to her exiting the vehicle.

Other conclusions

[71] There was no dispute, and I am satisfied, that PC Robb and PC Morrison acted lawfully and appropriately during the pursuit of Mr Wilson’s vehicle

[72] There was no dispute, and I am satisfied, that PC Morrison acted appropriately and in the course of his lawful duty when he approached and apprehended Ms Collins at the conclusion of that pursuit.

[73] There was no dispute, and I am satisfied, that Ms Collins was not subjected to any inappropriate or excessive level of force or form of restraint by PC Morrison.

[74] There was no dispute, and I am satisfied, that the actions of the various police officers and medical personnel who assisted Ms Collins after she became unconscious on 22 December 2020 were appropriate and did not cause or contribute to her death.

[75] Ms Collins' death was not the result of a defect in any system or working.

[76] I have no recommendations to make in terms of Section 26(1)(b) of the 2016 Act which might realistically prevent other deaths in similar circumstances.