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Fatal Accident Inquiries (FAIs)

Thank you for your letter of 30 October in which the Committee request further information about the number of times a decision has been taken by Crown Counsel not to prosecute individuals who have subsequently been involved as witnesses in a FAI in relation to a death in prison custody. I apologise for the delay in responding.

A statistical reply will take some time to compile. COPFS uses a live operational case management system, specifically designed to receive criminal and death reports from the police and other specialist reporting agencies and to manage the cases for these purposes. The information that is held on the COPFS system is structured and coded to meet these operational needs, rather than for statistical reporting or research purposes.

The COPFS system has been able to identify that there were **246** FAIs concluded by the Procurator Fiscal in the last five financial years (01 April 2014 to the 31 March 2019, inclusive). 25 of these inquiries have been recorded as having been held at the discretion of the Lord Advocate (either in terms of Section 4 of the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 or Section 1(1)(b) of the preceding FAI legislation – the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976).

Deaths which occur in prison do account for the vast majority of the deaths in legal custody mandatory FAIs that are held and to identify the exact numbers of deaths in prison FAIs that had concluded in this 5 year period will require a manual review of the remaining **221** cases by SFIU officials. Those identified will then need to be separately analysed by SFIU in turn to confirm whether there were any decisions of the sort in which the Committee has an interest taken by Crown Counsel.



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Given the interest of the Committee and your request for further information, I have instructed that this review is undertaken. You will appreciate that individually checking each of these cases will be a significant task, but I would hope to have an update on its progress by the end of the calendar year.

I trust the information above is helpful to the Justice Committee.

**W. JAMES WOLFFE QC
LORD ADVOCATE**

