

**IN CONFIDENCE - NOT TO BE DISCLOSED BEFORE 5.00PM
TUESDAY 14 NOVEMBER 2006**



**Review of the Circumstances Surrounding the
Misidentification**

of

Danica O'Rourke deceased and Anita Swift deceased

By Mr Justice Weir, Presiding Judge for the Coroners Service

14 November 2006

1. Introduction

- 1.1. In the early hours of Sunday 2 July 2006 two teenage friends, Anita Swift and Danica O'Rourke, left a night club in Lisnaskea, County Fermanagh. They planned to return together to stay overnight at the Swift home in Newtownbutler and a taxi had earlier been arranged to collect and bring them there. Tragically as it turned out, they instead accepted a lift in a car driven by a cousin of Danica, one of four young men they had met in Lisnaskea, and the taxi was therefore cancelled. The car set off in the direction of Newtownbutler with the male driver and a male passenger in front and the two girls and the two other males in the rear. The front seat occupants were wearing seat belts but not those in the rear.
- 1.2 At around 3.25 am, while travelling on the main Lisnaskea to Newtownbutler Road in the Townland of Moorlough, the car having rounded a sharp left hand bend went out of control and collided heavily with a tree before coming to rest at the side of the road, partly on the verge and partly in the ditch. The driver and front seat passenger survived relatively uninjured. The four rear seat passengers died in the car. It is not the purpose of this review to comment upon the cause of the collision which is the subject of an ongoing Police investigation.
- 1.3 Subsequently the bodies were recovered from the scene and taken to the mortuary at Erne Hospital. There the bodies of the two males were correctly identified to the mortuary technician but those of Anita and Danica were not, having been confused one with the other at the scene of the accident. As a result and before the error had been established the body of Danica had been buried following a funeral Mass in the mistaken belief that it was that of Anita so that an exhumation, funeral service for and correct reburial of Danica became necessary together with a further funeral service for Anita. The natural grief and distress of the families of both girls at their sudden violent deaths was greatly added to by this error.

- 1.4 As Presiding Judge for the Coroners' Service I decided to review the circumstances surrounding the misidentification and to consider whether any lessons might be learned from it for the future. I have visited Fermanagh on four separate days to talk to those concerned and have also interviewed in Belfast others who were involved. The list of those whom I have seen or who have provided information by telephone or in writing is appended to this report. I received the utmost co-operation and courtesy from everyone whom I asked to assist me. I would like to record my sincere thanks to all, but most particularly to the members of the Swift and O'Rourke families who at a time of intense grief and deep family mourning kindly responded to my requests by welcoming me into their homes and, during lengthy discussions, providing me with all the help that they could.
- 1.5 The purpose of this review is, as I have said, to seek to identify so far as possible what occurred, partly in order to set the record straight and partly to ensure so far as may be that the best possible procedures for an incident of this type are implemented for the future. I have set out to avoid an adversarial or "blaming" approach to the review and have found support for that from all those to whom I have spoken including those most closely involved. Many of those concerned, not least but not only the families of the deceased, have been profoundly affected by this dreadful accident and its aftermath. What I hope may emerge from this review is a better system for identification of fatalities in similar cases in the hope that the likelihood of a similar mistake in future may be reduced.
- 1.6 I would particularly like to record my gratitude to Johnneen Wright of the Office of the Lord Chief Justice who was seconded to act as Secretary to the Review. His organisational skills and his mastery of all the persons involved in, and the chronology of, the events which occurred have greatly assisted my task. The Solicitors for each of the families, Anthony McGettigan for the Swifts and Joseph Moore for the O'Rourkes, also deserve particular

thanks for their willingness to liaise between the Review and their respective families, to facilitate and attend at my meetings with their families and to provide the Review with all the assistance that they possibly could.

2. What Happened?

2.1 Sunday 2nd July

Witnesses to the accident and other members of the public who came on the scene contacted the emergency services. Constables Ian Lyttle and Mary McLoughlin were the first police to arrive at around 3.30 a.m. On discovering the seriousness of the accident and that there were fatalities, they requested Sergeant Gary Wilson to attend from Enniskillen and he arrived just after 4.00 a.m. Inspector Ian Kennedy, the designated Senior Investigating Officer for road deaths in the Fermanagh DCU, had also been sent for and arrived at the scene. The driver, Daniel McDonnell, and front seat passenger, Daniel McDonald, were out of the crashed vehicle. The fire and ambulance services were in attendance and Reverend Father King, the Parish Priest of Newtownbutler, also arrived.

2.2 Constable Lyttle spoke to Daniel McDonald but could not establish from him the names of those in the vehicle. Constable McLoughlin waited with the driver, Mr McDonnell, who was in an agitated state until he could be persuaded to enter the waiting ambulance but in view of his state did not attempt to ask him questions. In the ambulance a paramedic, Shane Manley, talked to Mr McDonald who was somewhat confused but was able to give Mr Manley the names of the four rear seat passengers. Mr Manley passed this information on to the police. The two survivors were then taken to hospital, Mr Manley being one of the personnel who accompanied them. The deceased passengers remained in the vehicle until initial forensic examinations had been completed. Constable Lyttle observed that the female body behind the passenger appeared to be almost undamaged

facially whereas the girl in the middle of the rear had severe head injuries.

- 2.3 At around 4.45 am Jacqueline Swift, Anita's sister, telephoned Veronica O'Rourke, Danica's mother, concerned because the girls had not arrived at the Swift home in Newtownbutler. Mrs O'Rourke said that she would go into Lisnaskea to look for them. As she was getting into the car her sister Celine O'Rourke and nephew John emerged from their home next door to say that they had received a call from Michael McDonnell, the father of the driver, telling them that there had been an accident. Mrs O'Rourke and John O'Rourke went directly to the scene arriving at approximately 5.00am. A police cordon had been established but on explaining who they were they were allowed to pass through it but not to approach the crashed vehicle. A short time after their arrival they learned that Danica was in the car and that she was dead. Inspector Kennedy came to the family and introduced himself and Constable Gordon Lee, a Family Liaison Officer. It then became clear to the O'Rourkes that both Danica and Anita were indeed in the car and had both been killed.
- 2.4 Notwithstanding their grief the O'Rourkes bravely offered to go with Constable Lee, who had been detailed by Inspector Kennedy to act as Family Liaison Officer to the families of the two girls, so as to break the news at the Swift home before returning to their own. Anita's sisters, Sandra and Jacqueline, were thus informed of her death at around 5.30 a.m. They contacted their parents who were away for the weekend. Their brother Stephen, Father King and relatives also came to the house. Constable Lee advised them that the bodies would be taken to the Erne Hospital. One member of the family would be asked to identify Anita although others could also attend if they wished.
- 2.5 Constable Lee then followed on to the O'Rourkes' home, arriving at around 7.30am. While he was there Constable Hutchinson, who had been detailed as the Family Liaison Officer for the two boys, called him and informed him that

the identifications would take place at the Erne Hospital at around 11.30. Constable Lee told the O'Rourkes this and then telephoned the Swifts with the information. At that time it was anticipated that each family would nominate one or more members to identify the girls.

- 2.6 Meanwhile Police had contacted an undertaker, Mr Aidan Connolly, to ask him to remove the four bodies to the Erne Hospital. He in turn approached another firm of undertakers, Messrs Oliver Swift and Felix McCaffrey, to ask if they would assist him as two hearses would be required. Mr Oliver Swift is not related to the Swift family. Mr Swift and Mr McCaffrey were already aware of the accident as at the time when it happened Mr McCaffrey had been driving in the opposite direction and had narrowly avoided being involved in it. Mr Swift and Mr McCaffrey arrived at the scene with their hearse at 7.00 am but were not admitted to it until forensic examinations and photography had been completed at around 8.30 am. The bodies were then removed from the vehicle by the Fire Brigade having been photographed in situ and again as each was removed.
- 2.7 It is not clear how the girls' bodies were identified at the scene. In the cases of the two boys identification was relatively straightforward as one was carrying photographic identification and one was recognised by Sgt Wilson who had met him previously. As earlier noted, one of the girls had received very severe head injuries while the other had only a few marks to her face. The recollection of Mr Swift and Mr McCaffrey is that it was Inspector Kennedy who established for them which girl was Anita and which was Danica. They state that he had compared a photograph on a fake identification found in the car to one of the girls and they presumed that he had used other items found with this in a handbag to establish her identity. They say that they did not know either of the girls although they did know other family members.
- 2.8 Inspector Kennedy states that initially it was unclear whether one of the passengers was the daughter of Philip

Swift or the daughter of a Finian Swift. His recollection is that after the girls had been placed in coffins at the scene he spoke to the undertaker Oliver Swift who told him that the girl who was less badly injured was Philip Swift's daughter. He recorded in a small notebook: "U/taker believed that intact girl was Phillip Swift's girl" and later "Undertaker Ollie Swift indicated that the girl with the lesser injuries was Phillip Swift's daughter. He didn't know the O'Rourke girl." He states that this was confirmed by one of the other undertakers. In an entry made at some time after the scene was closed in his daybook kept in relation to the investigation the Inspector has recorded:

"Checked two female bodies in coffins; unclear who it [sic] belonged to, hair colouring different. Asked Ollie Swift, undertaker, if he knew if one of the girls was a Swift from Newtownbutler and he identified the girl with the lesser head injuries as Anita Swift, Phillip Swift's daughter. Didn't know O'Rourke girl and couldn't tell due to injuries. False I.D. looked more likely to belong to badly injured girl. Other undertaker confirmed he believed girl to be Anita Swift.

F.L.O. Con Lee updated and requested to seek opinion of mortuary attendant on possibility of visual I.D. of most seriously injured girl believed to be O'Rourke, in order to best advise family. I believe may be possible from a side view if attendant can disguise or cover damage."

- 2.9 Inspector Kennedy did not know either of the girls. He says that the photograph on the fake identification was compared to the two bodies but while it looked more likely to belong to the more badly injured girl it was not of any assistance in establishing the identities as the document was in a false name. Sandra Swift states that she subsequently discussed with Oliver Swift how the identification came to be made at

the scene and that he told her he had looked at the less injured body and believed it must be Anita Swift as the girl did not resemble Donna O'Rourke, Danica's cousin, whom he knew.

- 2.10 At around 9.30 am the four bodies were brought to the Erne Hospital at Enniskillen. The bodies were identified to the mortuary attendant, Mr Jim McGovern, by the undertakers. Mr McGovern says that the undertakers were quite sure of the identities of each of the four bodies when they brought them in and he accordingly affixed secure hospital identification bands to the bodies using for each the names provided by the undertakers. As is now clear, the body of Anita thus came to be wrongly labelled as that of Danica and that of Danica wrongly labelled as that of Anita. Receipt of the bodies was noted in the mortuary log book, together with addresses supplied later by police. The clothes and personal items were then removed from the bodies by the undertakers in accordance with normal procedure. All of the items that were removed were logged by Mr McGovern. He states that the procedure is that all clothing and other items are required to be removed from a body before it is conveyed to Forster Green Mortuary for post mortem examination.
- 2.11 As Inspector Kennedy's note quoted at 2.8 above seems to confirm, the possibility of the visual identification by the families of both girls' bodies was not initially ruled out by him and, as mentioned above, both families were initially asked to be ready to come to the hospital for that purpose. As had been directed by Inspector Kennedy, Mr McGovern was consulted and felt strongly that the more gravely injured body was not suitable for visual identification. He expressed this view to Constable Hutchinson and stated that the decision was for him, Mr McGovern. This body, by then already wrongly labelled as that of Danica O'Rourke, was therefore not taken to the viewing room. The body of the other girl, already wrongly labelled as that of Anita Swift, was placed in the viewing room.

- 2.12 Constable Hutchinson contacted Constable Lee and told him that Mr McGovern had determined that the body of Danica was not suitable for visual identification by the family and Constable Lee accordingly advised the O'Rourke family that they would not need to go to the hospital to identify the body and therefore they did not do so. The Swift family recall that they were aware from an early stage that one of the girls' bodies was badly injured and they were subsequently told that this was Danica's body. They naturally understood that they were going to view Anita's body and they were told by Constable Lee that the O'Rourke family would not be attending the hospital to visually identify Danica. They attended the Erne Hospital shortly before 1.00 pm.
- 2.13 Phillip Swift (father), Stephen Swift (brother), Jacqueline Swift (sister), Finian Swift (uncle) and Adrian Swift (cousin) came to the Erne Hospital at about 1.00 p.m. to identify the body of Anita. Before the viewing Constable Lee told the family to expect that Anita would not look like herself due to the trauma of the accident. In accordance with normal procedure, the mortuary attendant, Mr McGovern, uncovered the girl's head but kept the rest of the body covered. Constable Lee then asked the family members to identify the body. Stephen Swift states that his initial reaction was that it was not Anita but he felt that this was just as a result of the collision; he did not think the body looked like either girl. Danica had a part time job at Swift's shop and the two girls were friends so that the families of each girl knew the other well. Jacqueline stated that she queried the girl's hair colour being darker than that of Anita. She was told, she believes by Mr McGovern, that this might be as a result of blood from injuries sustained in the collision and that Anita would look more like herself when she came back from Belfast. Mr McGovern does not recall commenting. Jacqueline stated that she noted distinctive green eye-shadow which Anita had been wearing. She did not think at this stage that it was not Anita; she simply felt that Anita did not look like herself. Mr McGovern recalls that one member of the family did say that it was not Anita

but that when they left the room they seemed satisfied that it was her. He does not remember any comment regarding identity being made by the police in the viewing room. Constables Lee and Hutchinson were present; both recall that the family spoke quietly amongst themselves during the viewing but say that neither heard what they said.

2.14 Following the viewing the family sat down together. Stephen Swift says that they were in shock; no doubts were expressed at this point. He then signed a formal Police statement stating that he had identified the body he had been shown as that of his sister Anita. Constable Lee confirms that no doubts were expressed to him by the family members present. Jacqueline Swift asked him if she could have the clothes which Anita had been wearing. Constable Lee told her that they were "not in good condition" and her father then said that in that case they would not take them. Constable Lee returned them to Mr McGovern for disposal which meant that neither family had the opportunity to see the clothes removed from the body wrongly identified as that of Anita.

2.15 Stephen Swift was then given an envelope containing the personal items removed from the body - three silver coloured rings and a small amount of money. Mrs O'Rourke believes that had she seen them at the time she would have recognised at least one of the rings as being Danica's but Anita's sisters did not particularly recognise them and assumed that as they had been returned to them they must be Anita's. Similarly, some black beads from the other body were returned to the O'Rourke family who assumed they were Danica's. Mrs O'Rourke notes that Danica did in fact own a similar set of beads. Some items including Anita's watch and handbag had not yet been released by police, and the Swift family believed her beads were still among these items. The two families did not have an opportunity to discuss together the ownership of the various items until after the misidentification had been discovered.

- 2.16 Following the viewings of the three bodies that were considered by Mr McGovern to be suitable for family identification, all four bodies, including that wrongly identified as that of Danica which the O'Rourke family had not been allowed to see, were transported to Forster Green mortuary in Belfast for post mortem examination.
- 2.17 At around 9.00pm Constable Hutchinson collected Danica's dental records from her dentist in Enniskillen, Mr Edward Beattie, as he was to take these to the post mortems in Belfast on the following day so that the badly injured girl, then thought by everyone to be Danica, could be identified by using them.

3. Monday 3rd July

- 3.1 The post mortem examinations of the four bodies were carried out on Monday morning by the State Pathologist, Professor Jack Crane, the first commencing at 8.20 am. The three bodies which had been visually identified were examined first. Prior to each post mortem the body in question was identified to Prof. Crane by the Family Liaison Officer, Constable Hutchinson. Prof. Crane states that the established practice is to accept the identification provided by the Police where the police are certain of it. Further steps are taken to establish identity if the Police do not know it or are uncertain. It is clear that at the time of autopsy no uncertainty was expressed in any of these three cases.
- 3.2 Constable Hutchinson informed Prof. Crane that he did not have available any medical history for the four deceased. No details were included on the P1 Forms (completed by police to provide background information for the coroner) for either girl. At Prof. Crane's request Constable Hutchinson then contacted by telephone the Health Centres which the four had attended for details of any relevant medical history. He recorded the information he was given on the P1 Forms. Nothing of significance was reported to him in relation to either girl. During the post mortem of the fourth body (then

wrongly believed to be that of Danica) which commenced around 10.20 am, Prof. Crane noted a curvature of the spine. Con. Hutchinson had not learned from his calls to the Health Centres that either girl had this condition. Because there was at that time no doubt about the correct identification of the girls no enquiry concerning the condition was at that time made of either family.

- 3.3 Following the examinations, forms were provided to the Family Liaison Officer indicating that the pathologist had no need to further retain the visually identified bodies. The Family Liaison Officer in turn informed the Coroners' Liaison Officer, Grainne Barker, who called the mortuary on behalf of the Coroner to authorise the release of the bodies and the three bodies which had been identified were accordingly released to the undertakers. Messrs Swift and McCaffrey had been retained by the families of the two girls and of one of the boys to carry out their funeral arrangements.
- 3.4 The plan was then to confirm the identity of the fourth body from the dental records of Danica that Constable Hutchinson had brought with him from Enniskillen and provided to Prof. Crane. Mr Napier, a forensic odontologist, attended at Forster Green mortuary around 12.30 pm. He examined the dental records and compared them with the body. He was not satisfied that the records matched; however he at that time considered that there were a number of possibilities - for example, the person might have more recently attended a second dentist whose work would therefore not appear on the records supplied and also if dental work is very professionally done it can be difficult to see on an initial examination. He was not, therefore, unduly concerned about the identity at that stage. Inspector Kennedy was informed that the results were inconclusive but no particular concerns were then expressed. Constable Hutchinson recalls that he was contacted by Grainne Barker while on his way back to Fermanagh and informed that there seemed to be a problem with the dental records but that no question was raised at that stage of a possible mix-up of the girls' bodies.

Constable Lee advised the O'Rourkes that Danica's body was not being released with the others.

- 3.5 When the O'Rourkes were informed that there would be a delay in releasing Danica's body they spoke to Oliver Swift about the possibility of their identifying Danica visually. He agreed that it might speed things up and spoke to the mortuary assistant at Forster Green, Bryan Collins. Mr Collins called Grainne Barker, the Coroners' Liaison Officer, at around 1.00pm and informed her that the O'Rourkes were keen for a visual identification to take place. He thought that a member of staff at the mortuary might be able to reconstruct the face, but this would not be possible if the jaw were removed to allow the dental comparison. Mr Collins contacted Prof. Crane who advised that the jaw should be removed and therefore against an attempt at reconstruction. Therefore no visual identification took place.
- 3.6 The other three bodies were prepared in Belfast and dressed in clothes supplied by the families. In the case of the girl still thought to be Anita, the undertakers had some difficulty in dressing the body as the clothing was too small. However, it is said that it is not entirely unusual for there to be difficulties as a result of injuries sustained and still no suspicions in relation to the identification were aroused. The three bodies were then brought back to the Erne Hospital that evening.
- 3.7 Sergeant Wilson and Constable Lyttle went to the Erne Hospital at 5.00pm to interview the front seat passenger, Daniel McDonald. They had been unable to speak to him at hospital the previous morning as he was undergoing medical treatment. Mr McDonald provided the officers with the positions in which the four rear seat passengers had been sitting immediately prior to the crash. He put them in the following order; Peter Leonard immediately behind the driver, Anita beside him to his left, then Jonathan McDonald to her left and finally Danica on the nearside behind the front seat passenger. He was asked to repeat their order and

confirmed that he was sure that these had been the positions of the rear seat passengers.

- 3.8 Constable Lyttle was puzzled by this. He had left the scene of the accident with Sergeant Wilson before 7.30 a.m. the previous day and so had not been present when the bodies had been removed from the car. However, as recorded at 2.2 above, while at the scene he had noticed that a girl with slight facial injuries was seated behind the passenger and he also knew that only one girl, thought to be Anita, had been visually identified because, as he had also seen, the other was considered to be too badly disfigured. Realising the possible significance of this information, if it were right, for the correct identification of the girls, on leaving the hospital Sergeant Wilson in the presence of Constable Lyttle telephoned Inspector Kennedy from his car and informed him of what they had been told.
- 3.9 Inspector Kennedy told him that there was no issue around the identities as Anita had already been identified by the Swift family. The Inspector also said that Mr McDonald was probably confused following the accident. It appears that he was also sceptical about the reliability of the information because, as appears at 2.2 above, Daniel McDonald had not provided any information about the identity of the passengers to Constable Lyttle when asked at the scene, he was believed to have drink taken and the Inspector thought in any event that the positions of the unrestrained passengers in the rear of the vehicle could have been altered by the force of the severe impact. However Constable Lyttle remained uneasy and later mentioned his concerns to colleagues at the police station but felt then that, having reported the information and its possible significance to the Inspector, he could not take the matter further.
- 3.10 At around 7.10pm Constable Lee visited the Swifts to return a mobile telephone and black handbag which had been given to him by Inspector Kennedy. The items had been found in the car, not on either of the bodies, and were correctly identified as belonging to Anita. During this visit no doubts

were expressed by the family to Constable Lee about the identification of Anita.

- 3.11 A large number of mourners attended at the Erne hospital where the remains were returned. The families were given a few minutes alone in the viewing room prior to other mourners being admitted. Anita's parents, Stephen, Sandra and Jacqueline viewed the body. The three female members of the family thought that it did not look like Anita. Jacqueline in particular had doubts as to whether it was Anita. However, the family did not have an opportunity to discuss any doubts or concerns about the identity before the public were admitted to pay their respects. After the public had withdrawn and before the coffin lid was replaced the family raised some doubts with Mr Oliver Swift and Mr McCaffrey and particularly referred to the hair colour, but were reassured that their doubts were unfounded and were due to their distress.
- 3.12 The body was brought back to the family home in Newtownbutler at approximately 10.30 p.m. where the coffin was opened. Again, very large numbers of people called at the house to express their sympathy. There was actually a queue in the driveway and visitors continued to call until as late as 3.30 am. Some of the visitors, including the parish priest, Father King, were convinced that it was Anita. Others commented that she did not look like herself. It is not certain whether any of the visitors believed that it was Danica but, if so, it is not apparent that anyone openly voiced that opinion. There is a suggestion that some of the girls' friends did form this view but that in the circumstances they understandably did not feel able to raise the possibility. Certainly no concerns about a misidentification appear to have been voiced to anyone in authority until after the fact of the misidentification had subsequently become clear.
- 3.13 Jacqueline Swift spoke to Oliver Swift that evening. She asked him about false nails which were absent from the body. Jacqueline has a particular awareness of such matters as she is a beautician. He said that she was upset and he

reassured her that it was Anita. She had suggested to him that it was Danica and he thought that she believed he had brought the wrong body back from Forster Green. He knew that it was the same body as he had taken to Belfast because the hospital identification tag affixed by Mr McGovern prior to the first viewing was still in place when he collected the body from Belfast. He therefore re-assured her that it was the correct body.

3.14 Danica's mother Veronica and cousins Donna and Shauna were among the many that attended the wake. Mrs O'Rourke was, understandably, in shock and did not look closely at the body. She recalls that she walked through the room but did not stop. Donna walked behind Mrs O'Rourke and also recalls that she did not really look at the body. Jacqueline Swift remembers that she asked Donna if she thought the body was in fact that of Danica. Donna recalls being asked if she thought it looked like Danica but she didn't respond. Jacqueline also asked Veronica O'Rourke whether Danica had any scars. Mrs O'Rourke mentioned a scar on her face which was not evident on the body; she did not mention a scar on her hand. Mrs O'Rourke also recalls that Sandra Swift commented to her that the mouth of the body looked like that of Danica.

3.15 Jacqueline Swift had noted a number of features which caused her concern - the eyebrows, nose, teeth, chest, fingernails and a scar. However, when these were mentioned to the undertakers an explanation was provided that these were due to natural swelling, injuries from the collision, and the embalming process. As a result of this reassurance these doubts were not communicated to police or the Coroners Office. After the last of the visitors had left Jacqueline also checked the feet of the body as she had decorated Anita's feet with a distinctive flower pattern. There were some traces of a similar pattern visible and this satisfied her at that time that the body must indeed be that of Anita.

3.16 On Monday evening at about 11.00 p.m. the forensic odontologist, Mr Napier, happened to see photographs of the two girls on a television news broadcast. He thought from seeing these that the teeth he had examined may have belonged to Anita and not Danica but his detailed examination was scheduled for the following morning.

4. Tuesday 4th July

4.1 Further mourners called at the Swift home from as early as 7.45 am until shortly before the family left for the chapel for the funeral Mass and interment.

4.2 Early that morning Mr Napier spoke to Prof. Crane and told him that he would need to remove the jaw in order to take x-rays and conduct a thorough examination of the teeth. Prof. Crane therefore contacted the Coroner, Brian Sherrard, at around 9.30 am. The Coroner asked if it would not be possible for a visual identification to take place. Prof. Crane advised against this given the extent of the injuries and the distress that would be caused should it prove that the body were not in fact that of Danica. Mr Sherrard therefore agreed to the removal of the jaw.

4.3 At around 11.00 am Mr Napier compared the x-rays that he had had made of the removed jaw with the x-rays in Danica's dental records and advised Prof. Crane shortly after 11.00 am that they did not match. Mr Napier was certain that the dental records with which he had been provided did not relate to the body being identified. He considered that the body might be that of Anita. However there remained a number of other possibilities, for example that the dental records with which he had been provided by Mr Beattie were not in fact those of Danica but of someone else. Prof. Crane immediately informed the police and the Coroners' Liaison Officer of Mr Napier's findings and she in turn spoke to the Coroner. The Coroner telephoned Inspector Kennedy,

who was in Newtownbutler to oversee the arrangements for traffic control at the funerals and asked him to go immediately to delay the Swift funeral and check that the Swift family were quite sure that they had the correct body. Thereupon Inspector Kennedy went straight to the church.

- 4.4 Shortly after conducting his examination, Mr Napier spoke to Mr Beattie to ensure that there was absolutely no possibility that the records in his possession were not those of Danica. Mr Beattie was very familiar with the detail of the specialised work he had carried out on Danica's teeth and he discussed this detail with Mr Napier. He was able to confirm, based on the description of the dental work provided by Mr Napier, that the body in Belfast was not that of Danica.
- 4.5 Around the same time Sergeant Wilson received a message asking him to call Prof. Crane. Prof. Crane advised him that there was a problem with the dental records. It seemed to him that either the dental records were not those of Danica or that the body in Belfast was not hers. There was a possibility that it was that of Anita. Sergeant Wilson called Inspector Kennedy who was by then well aware of the situation. The Sergeant asked Constable Hutchinson to check with Danica's dentist that the records he had supplied were definitely hers.
- 4.6 Constable Hutchinson spoke to Mr Beattie who confirmed that the correct records had been sent. Con. Hutchinson passed this on but was asked to check again with the dentist and in particular to ask whether the records for Danica's cousin Donna might have been sent in error. He called Mr Beattie again and was once more advised that the records supplied were definitely those of Danica and that he did not have Donna O'Rourke as one of his patients. Constable Hutchinson also spoke to Mr Beattie's receptionist and she too confirmed that there was no possibility that the incorrect records had been sent. Mr Beattie's records are grouped together by family and list the patient's full name and address. There was no possibility of error on his part.

- 4.7 Anita's funeral Mass had commenced at 11.00 am. It was therefore approaching its end when Inspector Kennedy arrived at the chapel. He spoke to the undertakers waiting outside, they alerted the sacristan who attracted Father King's attention and he withdrew from the church to the sacristy while a concelebrant continued the Mass. He there discussed with Inspector Kennedy and the undertakers the message that had come from Belfast about Danica's dental records not matching the body there. Oliver Swift said that he was sure the body they were burying was that of Anita. (He believed there was some continuing suggestion that he might have brought the wrong body back from Belfast but he knew that he had brought back the body still bearing the identifying tab for Anita initially placed on the body by Mr McGovern, which tab he had retained). Father King also said that he was "140% sure" it was Anita (although he had not seen a great deal of her since she had left primary school). He returned to the church and brought Jacqueline Swift out from the congregation to speak to Inspector Kennedy. She states that he told her that there was a problem with the identification but did not go into detail. She explained to him that she had checked the toes of the body and believed from the remaining traces of the design painted on them that it was Anita.
- 4.8 Inspector Kennedy then telephoned the Coroner and told him what had been said at the church in response to the information he had relayed from Prof. Crane and explained that the undertaker, the parish priest and Jacqueline Swift were all quite positive that the body at the funeral was that of Anita. It was agreed that the funeral could proceed, but that after the interment the grave should be covered with temporary boards and not filled in. The Coroner spoke to Prof. Crane and told him that Anita's identity had been confirmed at the church and that he had allowed the funeral to proceed. Prof. Crane said that he would nevertheless continue to examine whether the body in Belfast was that of Danica. He spoke again to Mr Napier who was adamant

that the dental records did not match the teeth he had examined.

- 4.9 Around 2.00 pm the Coroner spoke again at length to Inspector Kennedy. The Inspector confirmed that the family, priest and undertaker had no doubt that they had the correct body as was the view of many other mourners. He also confirmed that Mrs O'Rourke had seen the body. Mr Sherrard then agreed that the grave could be filled in. At that time the Coroner felt that it was much more likely that there was some error with the dental records than with the visual identification made or acquiesced in by so many people.
- 4.10 Mrs O'Rourke recalls that following the funeral Constable Lee was contacted by the Coroners' Office and asked to find out what clothes Danica had been wearing on the night of the accident. Mrs O'Rourke was unsure as Danica had got changed and gone out directly from the Swifts' shop so John O'Rourke attempted to find out from Danica's friends. Constable Lee also asked whether Danica had a jewel on her tooth; Danica had previously had a jewel, but it had been removed. Mrs O'Rourke states that it was at this point that Constable Lee informed them that there was a possibility that the body at Forster Green was that of Anita and not Danica.
- 4.11 The possibility of obtaining Anita Swift's dental records was discussed with police. Inspector Kennedy felt that at that time, immediately after the funeral, it would be better not to approach the Swift family but rather to focus on Danica O'Rourke. A number of possible visual identifiers were discussed - such as a small scar on her face. However, in view of the extent of the injuries to the head of the body in Belfast these were not of any assistance. Danica's uncle offered to view the body to confirm whether it was Danica. At this stage, because of the severe injuries and the fact that the jaw had had to be removed for accurate comparison with the dental records, visual identification was not considered an option.

- 4.12 Inspector Kennedy suggested that fingerprints could be taken from the body and from some of Danica's personal items for comparison. Constable Hutchinson went to the O'Rourke home where Constable Lee already was. Mrs O'Rourke told the officers that Anita had been with Danica in Danica's room on the Friday night when they had been getting ready to go out. The officers realised this would introduce an element of doubt into any comparison of fingerprints. Nevertheless, with the permission of the O'Rourke family, crime scene investigators took fingerprint lifts in the bedroom and these were provided to Senior Fingerprint Officer, Mandy Watson, in Belfast shortly before 7.00 pm. Fingerprints had been lifted from Danica's spectacles, a perfume bottle, a tube of hand cream, a make-up box, and from inside her school bag. On initial visual examination the lift from the spectacles had a similar pattern to one of the prints from the body. Closer examination confirmed that they matched. This meant that the person whose body was in Belfast had handled the spectacles. Mandy Watson had also been informed that both Anita and Danica had been in Danica's bedroom on Friday. The lift from the schoolbag would have been the least likely to have been left by someone other than Danica but it was not of sufficient quality to allow useful comparison.
- 4.13 Ms Watson telephoned Inspector Kennedy at 8.50 pm to advise him of the results. They discussed briefly the fact that both girls had been in Danica's bedroom and there was therefore the possibility that Anita may have handled any of the items, including the spectacles. It was however thought that the glasses, being a personal item, were relatively unlikely to have been handled by Anita.
- 4.14 DNA swabs were also taken from Mrs Veronica O'Rourke by the crime scene investigators in case these might be needed but DNA tests ordinarily take at least several days for the results to become available. It was hoped that other methods would lead to a speedier resolution of the uncertainty.

- 4.15 Inspector Kennedy then spoke again to Mr Sherrard at approximately 9.30 p.m. He recalls that he was quite frustrated that the Coroner had still not released Danica's body despite what he felt at the time was persuasive evidence that it was her. He states that he was not then fully aware of the reasons why Prof. Crane was not satisfied with the identification of the body in Belfast as being that of Danica. Mr Sherrard notes that he also felt the evidence was quite persuasive but Prof. Crane was not happy that the discrepancy with the dental records had been explained. Mr Sherrard agreed that this was troubling and felt that he could not therefore release the body. He decided that Anita Swift's dental records must be obtained for comparison with the body remaining at Forster Green as Mr Napier had advised Prof. Crane that there was no possibility that Danica's records related to that body. Prof. Crane considered at that time that, unless there was a chance that the body was that of someone else altogether, there must have been a misidentification before the bodies reached Belfast.
- 4.16 That evening at around 9.00 pm Jacqueline Swift telephoned Veronica O'Rourke. She asked what was the cause of the delay in releasing Danica's remains. Veronica told her it was a problem with identification. They discussed some details including the beads worn by Anita and the rings worn by Danica. They also discussed money that Danica had placed in a sock. Jacqueline then asked Veronica to call the Coroners' Office and ask them to examine the body for a curvature of the spine as Anita had such a curvature. Sandra Swift called Oliver Swift to ask him to check which girl had been wearing which items of clothing. Shortly after this conversation Constable Lee contacted the Swifts to let them know that Inspector Kennedy was intending to call at their home.
- 4.17 Inspector Kennedy contacted the O'Rourke family and advised them of the situation and told them that they would try to resolve it as soon as possible. Mrs O'Rourke informed him of what she had been told by Jacqueline Swift concerning Anita's curvature of the spine. He then went to

the Swifts' home. When he arrived they immediately said that they knew why he had come. They by then suspected that they had in fact buried the wrong girl. Jacqueline related her conversation with Veronica O'Rourke to Inspector Kennedy. The Inspector told them that the attempt to confirm Danica's identity from her dental records had not been conclusive. He asked for authorisation to obtain Anita's dental records, which they freely gave, and then discussed with the family how they would wish to proceed in the event that the body still at Forster Green proved to be that of Anita.

5. Wednesday 5th July

- 5.1 At 10.30am Constable Lee called the O'Rourkes and then the Swifts to advise them that Anita's dental records had been taken to Belfast and that an x-ray of the body there had been arranged. He told them that they should know the results by early that afternoon.
- 5.2 Inspector Kennedy advised Mr Sherrard that Anita Swift had a curvature of the spine. Mr Sherrard relayed this to Prof. Crane who told him that the body at Forster Green indeed had this condition. That morning Prof. Crane and Mr Napier together compared Anita's orthodontic records with the body. They were satisfied that they matched and they so advised Mr Sherrard. Prof. Crane then obtained an x-ray of the spine of the body which confirmed the existence of the curvature that he had previously observed.
- 5.3 Mr Sherrard was informed of this at approximately 2.30 pm. He accordingly authorised the release of the remains in Belfast to the Swift family and ordered the exhumation of the remains previously thought to be those of Anita Swift. The exhumation order was collected by Enniskillen police later that afternoon. Mr Sherrard spoke to Inspector Kennedy to request that the exhumation and identification of the body take place that night. Constable Lee was with both families at the Swift home. He was informed at 2.30 pm that the

body still at Forster Green had been established to be that of Anita and he relayed this to the families.

- 5.4 The exhumation took place at around 9.00 pm. Mr McCaffrey attended the exhumation while Oliver Swift had gone to Belfast to bring back the other body. Both bodies were brought to the Erne Hospital where the undertakers removed Anita's clothing from Danica's body and placed it in Anita's coffin. They then brought Anita to the Swift home.
- 5.5 Inspector Kennedy spoke to the Coroner and negotiated for the identification of Danica to take place in Enniskillen rather than have the body returned to Belfast. The Coroner agreed and around midnight Danica's aunt, uncle and cousin identified her at the Erne Hospital. They noted nine particular physical identifying features on her body. Grainne Barker, the Coroners' Liaison Officer, attended the identification and contacted the Coroner to confirm that the family was quite certain that it was Danica. However the Coroner considered it essential to have the dental records compared to eliminate any possible further doubt. The family naturally did not want the body to go back to Belfast. Mr Sherrard spoke by telephone to John O'Rourke who confirmed that the family members present were very close to Danica and were certain that it was her. Mr Sherrard spoke to Prof. Crane and it was agreed that instead Mr Beattie would be asked whether he would be willing to attend at the Erne Hospital and compare his dental records of Danica to the body there.

6. Thursday 6th July

- 6.1 Anita Swift was buried in a private family ceremony at Newtownbutler at around 7.00 am.
- 6.2 Mr Beattie attended at the Erne Hospital as requested. He examined the remains and confirmed both from his records and his clear recollection of the details of her treatment that he was quite certain that the body was that of Danica. The

Coroner was informed of this positive identification and accordingly at 11.30 am released Danica's remains to the O'Rourke family.

7. Friday 7th July

7.1 Danica O'Rourke's funeral was held in Lisnaskea.

8. Subsequently

8.1 Some time after these distressing events, during the month of August, Constable Lyttle paid private visits to the Swift and O'Rourke families. He discussed the events at the scene with the families and answered their questions as best he could. He stated that the order of the rear seat passengers had been described by Mr McDonald at the hospital and that he, Constable Lyttle, had passed this information on but by then Danica had already been incorrectly identified as Anita by the Swift family and there was therefore thought to be no remaining issue over the identification. Inspector Kennedy was also present during this visit to the Swift family and heard what Constable Lyttle said.

9. Conclusions on the Facts

9.1 I am satisfied that the initial misidentification of the bodies occurred before they were removed from the scene of the accident. I regret that I have been unable to ascertain with any certainty just how that error occurred.

9.2 The error was entrenched by the fact that the mortuary attendant, relying upon what proved to be incorrect information from the undertaker, wrongly labelled the bodies before any identification by the families had taken place. Had the O'Rourke family been permitted to view the badly disfigured body, or even its limbs, they would have been able to say without difficulty that it was not that of Danica because of a number of physical features unique to her with which they were well acquainted and which did not require an inspection of the head.

- 9.3 Because the head of Anita (then wrongly believed to be Danica) had been gravely injured the mortuary attendant, in order to avoid distress to the family, directed that the body could not be viewed by the O'Rourke family. As a result only the Swift family was asked to attend at the Erne Hospital to make an identification and it was presumed by everyone concerned that the body they were being asked to identify was that of Anita.
- 9.4 The Swift family identified the body they were shown as that of Anita and although it seems that there were some doubts expressed between them at the initial identification those were not at that time voiced to anyone in authority. The O'Rourke family was not asked to view the body because at that time nobody thought that it might be that of Danica.
- 9.5 The items of jewellery returned to the respective families did not cause them to doubt the identifications and they believed at that time that they had received the correct property.
- 9.6 When the bodies were at Belfast for post mortem examinations the telephone calls made at the request of Prof. Crane by Constable Hutchinson to the Health Centres did not elicit the important information that Anita had a curvature of the spine. Had this information been available at that stage it would have been invaluable in resolving the issue of identification.
- 9.7 When on the Monday the body wrongly thought to be that of Danica was not released with the other three due to the absence of a positive dental identification, the O'Rourke family, anxious to secure the prompt release of the body, offered to send a family member to Belfast to perform a visual identification. Prof. Crane understandably advised against this because of the extent of the injuries.
- 9.8 On the Monday evening when Inspector Kennedy was informed by Sergeant Wilson and Constable Lyttle that the front seat passenger was indicating positions in the rear of

the car for the passengers that, if correct, would suggest that the girls' identities had been confused the Inspector discounted the information because the Swift family had already positively identified their daughter and he therefore believed that the passenger must be confused as a result of his injuries. He was also influenced in arriving at this view by the other factors mentioned at 3.9 above.

- 9.9 When the body wrongly believed to be that of Anita was returned to the Erne Hospital that evening there was a very large crowd of mourners present to pay their respects. The family had only a short opportunity to view the body before the public were admitted and while some doubts were expressed amongst them, particularly by female family members, again nothing was said to anyone in authority.
- 9.10 A great many people called at the Swift home to pay their respects on the Monday night into the Tuesday morning. The coffin was open and among those who filed past were Danica's mother Veronica and her cousins Donna and Shauna who were naturally in a state of great grief and distress. While some of the mourners remarked that Anita was not like herself no-one appears to have said that they thought it was Danica. The strong disincentive for anyone to do so, given the attendant risk of making a most embarrassing mistake, is obvious.
- 9.11 The Swift family, particularly Jacqueline, raised queries with Mr Oliver Swift, the undertaker, about various matters but he reassured them throughout. Mr Swift felt sensitive to what he believed was the suggestion that he had somehow mixed the bodies up between Enniskillen and Belfast. As has been demonstrated, the bodies had in fact been mixed up at the scene before they ever reached Enniskillen.
- 9.12 By the time of the funeral the Swift family, having been repeatedly reassured that the body released to them was that of Anita, had overcome their doubts and were satisfied that they were burying Anita. They expressed this view strongly and convincingly to Inspector Kennedy when he performed

what must have been a most daunting task in going to the church during the latter stages of the Mass to relay what was being said in Belfast about the non-correlation of the dental records. The family were supported in their view by Father King and Mr Oliver Swift. The real possibility of confusion in the dental records was still being entertained at that time. In those circumstances the Coroner cannot be faulted for allowing the service to proceed. Indeed, had it been decided at that point to try to stop or delay the interment I have no doubt that, given the belief of the family and others at that point, Inspector Kennedy would have found that a most unhappy and difficult, if not impossible, task.

- 9.13 The attempts to confirm identity by reliance on make-up and pedicures unfortunately proved unreliable and misleading given that teenage girls often exchange and copy the make-up and fashion ideas of their friends. The taking and comparison of fingerprints also created a false trail since Anita and Danica had been together in Danica's bedroom on the Friday evening before the accident, although it might perhaps have been reasonably thought unlikely that Anita would have handled Danica's spectacles.
- 9.14 Professor Crane and Mr Napier were painstaking and rigorous in their examinations and it is due to them that the error was appreciated and confirmed.
- 9.15 The possibility that the mismatch of dental records with the jaw of the body might be due to an error in the identity of the person to whom they related continued to obscure the fact of the misidentification despite repeated checks with and assurances by Mr Beattie that he had definitely supplied the correct records as eventually was demonstrated to be so.
- 9.16 I am satisfied that no-one is "to blame" for the misidentification that occurred. The initial error made in the most difficult of circumstances at this dreadful scene was then adopted and acted upon in good faith by others. If some members of the public who saw the body of Danica when it was genuinely thought to be that of Anita had

doubts about her identification it is quite understandable that they did not feel able to publicly voice them at the time. The procedures in place in Prof. Crane's department ensured that the error was detected but unfortunately not before a distressing chain of events had resulted. That has been and will continue to be a matter of the deepest regret to those most closely touched by the events, the Swift and O'Rourke families, and also by those others such as the police officers, fire brigade and ambulance crews, undertakers and mortuary staff, the Coroner and his staff who have all been profoundly affected by what occurred. All of them deserve the understanding and compassion of the community and respite from the intrusive, ill-informed and insensitive attentions of certain elements of the media that at the time of these events added significantly and unjustifiably to the distress of the families when their crucial need was for privacy, sympathy and support. It is to be hoped that the publication of this review will not be the occasion for further thoughtless, sensational or unfeeling reportage. The media might bear in mind that, above all else, it is the families of the four young people who so tragically lost their lives whose interests need to be considered.

10. Procedures for the Future

10.1 During my interviews with those who were involved, I asked for suggestions as to what might be done for the future to try to avoid a similar error. The principal suggestions made to me were these:

- Preliminary visual identifications should be accepted and acted upon less readily by police and mortuary staff.
- Where identification of each body is not conclusive all relevant families should be asked to view the bodies.
- Any identification should be made by the immediate family but also confirmed by someone one step removed - for

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example, a more distant relative, a family friend, priest or doctor.

- The viewing should take place before removal of clothes, jewellery, etc. Alternatively, the clothes and personal items of the deceased should be provided for viewing alongside the body -in a transparent evidence bag if necessary.
- The family should be shown the entire body, not just the head.
- Clearer guidance should be issued on when visual identification is appropriate, and on who should make this decision. This should also make clear that even if visual identification is not thought appropriate, the family still have the right to insist on seeing the remains.
- Permission to obtain medical and dental records should as a matter of course be obtained at an early stage so as to enable details to be checked if necessary without any delay or the need for further approach to the family.
- P1 Forms should be completed more fully - particularly with regard to the medical history of the deceased. Alternatively, medical records should be obtained as a matter of course.
- Where there have been multiple fatalities from the same incident, all bodies of the same sex and broadly similar age should be retained until such time as all have been positively identified.
- Less reliance should be placed on visual identification of the body by family, in view of the obvious shock and distress which the family will be suffering.
- Lines of communication between families, Police, Coroners' Service and State Pathologist's Department are in place; however communication should be more open and the information more complete. A more direct line of

communication should be established between undertakers and the authorities.

- Greater use should be made of DNA and fingerprinting to provide information with which to compare DNA and fingerprints taken from a body.

10.2 Detailed decisions as to which of these suggested improvements (and any others) ought to be implemented for the future are beyond my knowledge and experience. They require the consideration of those with the necessary expertise. Fortunately there was in course of preparation at the time of these events a "Best Practice Guide for Coroners" on which considerable work had already been done by representatives of a number of agencies whose work brings them into contact with death. I have therefore decided to oversee the completion of that work under the leadership of the Coroners' Service. A small core group led by Brian Sherrard, the Coroner in the present case and who is therefore very well aware of the practical issues involved, will convene the group and its other core members will be Inspector Yvonne Davidson of PSNI and Dr Heather Neagle of the DHSSPS. They will consult with and draw upon the expertise of all relevant disciplines including but not limited to State Pathology, odontology, mortuary technicians, undertakers and those experienced in the identification of deceased persons after major incidents.

10.3 I ask the core group to pay particular attention to the suggestion that, where in the same incident there is more than one casualty, whether killed or injured, of the same sex and within a similar age bracket and where positive identification of everyone in the category has not been conclusively accomplished, no body from within it should be released for burial until everyone in that category has been positively identified by reliable means. I am conscious that the tradition of burial within (at most) three days of death that prevails throughout Ireland provides a powerful imperative for early release but the small number of cases that are likely to fall within this limited category should not

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significantly affect the custom. My provisional view is that it may be thought to be a price well worth paying if it assisted in the avoidance of such an error as occurred in the present case. I have therefore asked the Coroners to adopt that precaution, certainly on an interim basis pending the completion of the work of the core group.

Reg Weir

14 November 2006

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**Appendix - Persons who spoke to or supplied information to the
review.**

Grainne Barker	Coroners Liaison Officer
Edward Beattie	Danica O'Rourke's Dentist
Insp. Garry Clarke	PSNI Headquarters
Bryan Collins	Mortuary Attendant, Forster Green, Belfast
Aidan Connolly	Undertaker
Prof. Jack Crane	State Pathologist
Insp. Yvonne Davidson	PSNI Headquarters
John Hamill	NIFRS Station Commander Operations, Enniskillen District
Con. Ken Hutchinson	Family Liaison Officer
Insp. Ian Kennedy	Senior Investigating Officer
Fr. Michael King, P.P.	Newtownbutler
Con. Gordon Lee	Family Liaison Officer, PSNI Fermanagh
Con. Ian Lyttle	PSNI Fermanagh
Shane Manley	Paramedic
David Marshall	PSNI Headquarters
Felix McCaffrey	Undertaker
Ciaran McDermott	NIFRS Crew Commander
Anthony McGettigan; PJ Flanagan and Co. Solicitors	Solicitor, Swift Family
Jim McGovern	Mortuary Attendant, Erne Hospital, Enniskillen
Eric McGreevy	Principal CSI
Gerry McHugh	Fermanagh Resident
Karen McHugh	Fermanagh Resident
Con. Mary McLoughlin	PSNI Fermanagh
Con. Norman Millar	PSNI Brake Coordinator
Joseph Moore; O'Reilly Stewart Solicitors	Solicitor, O'Rourke Family
Seamus Napier	Dental Expert
O'Rourke Family	Lisnaskea
Brian Sherrard	Coroner
Swift Family	Newtownbutler
Oliver Swift	Undertaker
Mandy Watson	Senior Fingerprints Officer
Sgt. Gary Wilson	Investigating Officer, PSNI Fermanagh