

SHERIFFDOM OF TAYSIDE CENTRAL AND FIFE AT KIRKCALDY
Under the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976

DETERMINATION

by

SHERIFF PETER JOHN BRAID, ESQUIRE

in

Inquiry held at Kirkcaldy on
5 February 2007

into the circumstances of the death of

BARRY JOHN TIERNEY

Kirkcaldy, 6 February 2007. The Sheriff, having considered all the evidence adduced, DETERMINES in terms of section 6(1) of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976:-

1. that Barry John Tierney, born on 4 February 1961, a serving prisoner at H M Prison, Castle Huntly, died in the early morning of 8 April 2006 at 6 Dunvegan Court, Glenrothes, Fife;
2. that the death was caused by the adverse effects of morphine.

Note

Evidence was presented by Ms Monks, Procurator Fiscal Depute. Ms Martin-Brown, solicitor, represented the Scottish Prison Service. No other person was represented at the Inquiry.

The following witnesses were led: Ian Whitehead, Governor, HM Prison, Castle Huntly, Nr Dundee; Lawrence Doughty, SOCO, Fife Constabulary; and PS Shirley Fleming, Fife Constabulary. In addition, affidavit evidence was given by Detective Constable Tony Rogers and by Dr Elizabeth WL Lim, MB, ChB, Clinical Lecturer in Forensic Medicine, University of Dundee. Mr Tierney's widow, Janice Gail Tierney, did not give evidence, but a copy of her statement to DC Rogers was attached to the latter's affidavit and was spoken to by him.

The evidence showed that Mr Tierney had been a serving prisoner at Castle Huntly since April 2005, and, following a Community Access Risk Assessment, had been granted monthly weekend release from May 2005. In particular, he was granted such release on the weekend of 7 to 9 April 2006. He was collected by his wife at about 7.30am on 7 April. When making that arrangement, he had told her that he intended to purchase some cocaine for personal use during his home visit. Mr Tierney had been a habitual user of cocaine prior to his period of imprisonment.

Following a day spent on the usual domestic chores, including shopping and a meal out, the Tierneys returned home at about 3pm on 7 April 2006. A short time later, Mr Tierney told his wife that he had taken a line of cocaine. He appeared grey. He gave the impression of being drunk (having consumed some alcohol during the course of the day) but did not appear particularly unwell. Mrs Tierney observed another line of powder which Mr Tierney had made up for himself. The powder was lumpy and brown in appearance. Soon afterwards, Mr Tierney fell asleep on the sofa. He was still sleeping some hours later when Mrs Tierney, too, fell asleep. At just after 2.00am on 8 April 2006, Mrs Tierney awoke to find her husband apparently dead. She was unable to wake him. The emergency services were called but despite attempted resuscitation, Mr Tierney's death was confirmed. The cause of death was initially described as drug related, pending a toxicological analysis.

Mrs Tierney did not know when or where her husband had acquired the drugs which had apparently led to his death.

Mr Whitehead stated that in April 2006, prisoners were subject to drug tests on the basis of intelligence received. It normally took a week for the results of these tests to be returned by the laboratory. If a prisoner failed a drug test prior to home release, the home release would be cancelled. He thought that the last test undertaken by Mr Tierney prior to his release (which, given the then delay in test results being obtained, would have been more than a week before 7 April) had been negative. His drug test history was unremarkable in comparison with the general prison population.

The toxicological analysis revealed a level of morphine of 0.05 milligrams per litre of femoral blood. Although this level is below that normally associated with heroin or morphine-related fatalities, interpretation is complicated by the phenomenon of tolerance and by the fact that therapeutic levels often overlap considerably with fatal levels. It is possible for a level such as that present in Mr Tierney, to result in fatal respiratory depression in a naïve or irregular user, particularly if the person concerned had survived for a period of time following administration (in this case, approximately 7 hours).

Following the toxicological analysis, the cause of Mr Tierney's death was given as the adverse effects of morphine. "Adverse effects" includes the expected dose-related toxic effects, dose-independent collateral side effects and any idiosyncratic hypersensitivity reactions.

In summary, Mr Tierney died from the adverse effects of morphine. It is not possible to say where, when or from what source he acquired the drug. His death is a sad illustration of the risks inherent in drug taking. There were no reasonable precautions whereby his death might have been avoided. There was no failure in any system which contributed to his death.