

SHERIFFDOM OF LoTHIAN AND BORDERS AT EDINBURGH

2021 FAI 13

EDI-B757-20

DETERMINATION

BY

SHERIFF JOHN K MUNDY

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

into the death of

WALTER HENRY WALLACE

Edinburgh, 12 February 2021

Present:

Mr. Reid, Solicitor for Chief Constable for Police Scotland

Ms. Rodgers, Solicitor for PC Reid

Mr. Holmes, Solicitor for Lothian Health Board

Mr. Vaughan, Solicitor for PC Munro

The Sheriff, having considered the information presented at the inquiry, determines in
terms of section 26 of the Act:

- 1) In terms of section 26(2)(a), Walter Henry Wallace, born 18 March 1986,
and latterly residing in Edinburgh, died at 0445 hours on 11 December 2018 at
the Royal Infirmary, Edinburgh.

- 2) In terms of section 26(2)(c), the cause of death was choking on a foreign object in a man with multi-drug intoxication during physical restraint.

Makes no other findings and makes no recommendations.

NOTE

[1] Having heard the evidence and considered all the information presented, I restricted my findings to formal ones as set forth in the determination.

[2] I came to the conclusion that, having presented himself at St Leonard's Police Office on a warrant to apprehend late on 10 December 2018, Walter was then the subject of appropriate search procedures carried out by police. Those searches included a "pat down" on arrival, a more thorough search at the charge bar and a strip search in an allocated cell, none of which revealed the presence of illicit substances or items that could present a danger to Walter or to the police.

[3] Given his drug history and as a consequence of the vulnerability assessment carried out, Walter was (in addition to the strip search) made the subject of observations in his cell every 30 minutes and lodged in a cell at 2.30am on 11 December. On the second check at around 3.30am, he did not respond to being called and officers entered his cell. They managed to rouse him. They noted the presence of what appeared to be drugs on the cell bed. He appeared to have tablets in his hands. They took a hold of his arms as he appeared to be trying to move a hand towards his mouth. He struggled with the officers. He was taken to the ground and handcuffed. It was at around this point, Walter ceased to resist and appeared to go limp. Concerned for his well-being, the

officers took off the handcuffs and placed him in the recovery position. It was not known whether he was choking or whether his condition was due to drugs intoxication. In case it was the former, back slaps were carried out. Following this, other staff including the police nurse quickly attended and the nurse administered Naloxone to counter the possible effects of opioids. She also inserted an airway tube after checking that there appeared to be no obstruction. Ambulance staff and paramedics appeared quickly on the scene. Various procedures including CPR were carried out, firstly by officers and then paramedics following their arrival. There appeared to be an appropriate breath reading on a Capnography monitor. Walter was moved to an ambulance and, following difficulties in ventilating him, it was noticed that there was now no breath reading. On investigation a paramedic discovered there was an object in the area of his larynx which was obstructing his breathing. It was removed by forceps. The obstruction was later found to be a “Kinder egg” containing illicit substances. Walter was taken to hospital but could not be saved.

[4] I concluded that the procedures carried out by police officers and their staff could not be faulted and that the Care & Welfare of Persons in Custody Standard Operating Procedures dated 30 October 2018 had been fully complied with. Further, I concluded that the actions of the medical staff could not be faulted.

[5] It would appear that Walter had managed to conceal drugs internally, including the Kinder egg, and following being lodged in his cell, he had accessed them. At some point, he has attempted to conceal in his mouth or swallow the Kinder egg with the result that it lodged in his larynx causing him to choke. I concluded that there was no

reason for the police, their staff or paramedics to know of the existence of such an obstruction before it was found while Walter was in the ambulance.

[6] There was no evidence that there were precautions which could reasonably have been taken, which had they been taken, might realistically have resulted in the death being avoided (section 26(2)(e) of the Act), nor was there evidence that there were defects in any system of working which contributed to his death (section 26(2)(f)). Further, I concluded that there were no other facts which were relevant to the circumstances of death.

[7] This was an event where Walter took a risk in concealing drugs, with tragic and fatal consequences. I extend my condolences to his family and friends.