

Ministry of Justice

15 July 2010

Editor
Dive NZ Magazine
PO Box 42020
Auckland

Re. Raymond Basil De Thierry

Please find attached a copy of the Coroners Findings.
Please note Recommendations para [5.1] - [5.3].

Yours faithfully

Gary Binney
Case Coordinator

cc.

A Goudge, Emergency Communications Centre, The Order of St John Chief Executive, National Office,
The Order of St John Southern Communications, NZ Police
National Dive Squad, NZ Police
National Diving Coordinator, OSH
Water Safety NZ
Dive NZ Magazine

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IN THE CORONER'S COURT HELD AT Invercargill

IN THE MATTER of the Coroners Act 2006

AND

IN THE MATTER of an Inquest into the death of
Raymond Basil DE THIERRY

Before: David Crerar
Otago/Southland Regional Coroner

Appearance: Constable Grant Nimmo
Inquest Officer. Invercargill Police

Witnesses: Blair De Thierry
Russell Eddy
Constable Fintan Murphy
Te Anau Police

In Attendance: June Ashford
Lionel Ashford
Kate De Thierry
Horiana Eddy

Media: Jarod Morgan
Southland Times

Date of Hearing: 13th April 2010

Date of Finding: 06th May 2010

FINDING OF CORONER

[1] Introduction

[1.1] The body of RAYMOND BASIL DE THIERRY of Dunedin, a security officer (Raymond De Thierry), was discovered at Murray Beach, Stewart Island, on the 6th April 2010, with the appearance that he had drowned.

[1.2] This Finding is to be read in association with the Certificate of Final Findings, issued pursuant to section 95 of the Coroners Act 2006.

[1.3] The death of Raymond Basil De Thierry was reported to me and, as Coroner for the Otago/South land, I have conducted an enquiry and held an Inquest.

[1.4] I met Mrs Kate De Thierry and a family friend and support person, Heather Pringle, in my Dunedin Chambers on the 30th September 2009. In that meeting we identified some of the issues in relation to the causes of the death and the circumstances of the death of Raymond De Thierry.

[1.5] In addition to my meeting, I have been in regular correspondence with Mrs Kate De Thierry.

[2] Purpose of Inquiry

[2.1] The purpose of an inquiry is set out under Part 3 of the Coroners Act 2006 (Act). Section 57 of the Act defines the purpose of inquiries as follows;

(1) A coroner opens and conducts an inquiry (including any related inquest) for the 3 purposes, and not to determine civil, criminal, or disciplinary liability.

(2) The first purpose is to establish, so far as is possible—

(i) That a person has died; and

(ii) The person's identity;

(iii) When and where the person died; and

(iv) The causes of the death; and

(v) The circumstances of the death.

(3) The second purpose is to make specified recommendations or comments that, in the coroner's opinion, may, if drawn to public attention,

reduce the chances of the occurrence of other deaths in circumstances similar to those in which the death occurred.

(4) The third purpose is to determine whether the public interest would be served by the death being investigated by other investigating authorities in the performance or exercise of their functions, powers, or duties, and to refer the death to them if satisfied that the public interest would be served by their investigating it in the performance or exercise of their functions, powers, or duties.

[3] Evidence

[3.1] BLAIR RAYMOND DE THIERRY of Dunedin, a student (Blair De Thierry), read the deposition prepared for him by the police.

[3.1.1] Raymond De Thierry, Blair De Thierry, and four others travelled by charter boat to Murray Beach on the 3rd April 2009, intending to spend time there hunting and fishing.

[3.1.2] On the 6th April 2009, at about 3.30 pm, Blair De Thierry saw his father putting on a wetsuit. and walking out to a site for paua diving about 500 metres from the beach, which was about 200 metres from their campsite. Raymond De Thierry carried a catch bag, mask, snorkel and weight belt, and was clad in booties and a full 7 mm dive suit.

[3.1.3] Blair De Thierry and Jason Eddy followed about 20–30 minutes later to watch and take photographs. As they walked along the rocks at the end of the beach, Blair De Thierry saw his father's snorkel and his head bobbing up and down in the water. Blair De Thierry immediately jumped in to help, but found it difficult due to his heavy clothing.

[3.1.4] Raymond De Thierry did not respond when Blair swam out to him and attempted to pull him out of the water. Justin Eddy and Blair De Thierry dragged Raymond De Thierry onto the rocks and attempted CPR. Another party member responded to their cries for help and called for assistance on a cellphone. A fishing boat arrived, as did a helicopter some time later.

[3.1.5] Blair De Thierry said that his father was in good health, apart from recent difficulties with balance, possibly caused by an ear complaint.

[3.1.6] Raymond De Thierry was very fit, had studied physical education, was a competent swimming and lifeguard and had an open water dive ticket.

[3.2] RUSSELL JAMES EDDY of Omarama, a regional manager (Russell Eddy), read the deposition prepared for him by the police.

[3.2.1] He and others had been going to Stewart Island every second year for many years. In April 2009 the group stayed at a camp on the Murray River and went hunting and fishing.

[3.2.2] On the afternoon of the 6th April 2009, Russell Eddy and a companion went fishing in his inflatable, and did not see Raymond De Thierry enter the water. On their return in their inflatable, their attention was drawn to Justin Eddy and Blair De Thierry who were attempting CPR and calling for help. Russell Eddy said that resuscitation attempts were hampered by the rocks and the tidal surge and wave surge.

[3.2.3] On being shown the photographs of the diving gear used by Raymond De Thierry, Russell Eddy thought that the goggles, snorkel and wetsuit belonged to Justin Eddy, but the boots belonged to Raymond De Thierry. The weight belt used by Raymond De Thierry was not a proper diving belt - it was used as a snorkelling belt to get down to the bottom and rock pools. Russell Eddy said that he did not think that Raymond De Thierry would have intended to go out of his depth and that he may have been "tricked" by a tidal surge and pulled out of his depth. The belt was intended for rock hopping around the edge of rock pools and that sort of stuff. It was not intended for use in water over a person's head. Once on the belt is not really something you could take off in a hurry.

[3.3] CONSTABLE FINTAN PATRICK MURPHY of the Te Anau Police gave evidence of being called by South omms through the St John Ambulance requesting

assistance for a near drowning on Stewart Island, There was some delay in tasking the helicopter with the doctor and medic and Constable Murphy and it took them 35–40 minutes to reach Murray Beach.

[3.3.1] By the time they arrived, CPR had ceased some time previously. Dr DCM Hamilton checked Raymond De Thierry, found him to be deceased and completed a "Life Extinct Form", which was produced as an exhibit. Blair Raymond De Thierry formally identified his father and the Statement Of Identification signed was produced as an exhibit.

Constable Murphy also produced as exhibits:

- Signed Statement from Russell James Eddy
- Signed Statement from Blair Raymond De Thierry
- Copy of his Job Sheet
- Copy of the Job Sheet of Constable Grant Nimmo
- Booklet of Photographs
- Maps of the Murray Beach area of Stewart Island

[3.3.2] Also produced by Constable Murphy were a copy of the Coronial Autopsy Report in respect of the examination conducted by Pathologist, Professor Han-Seung Yoon, and a copy of the ESR Toxicology, completed by Toxicologist, Alexandra Park.

[3.3.3] I sought and obtained two further reports, which were presented in evidence by Constable Murphy. A copy of the report from the St John Ambulance, authored by Alan Goudge, and a copy of the report from the Police National Dive Squad.

[3.3.4] Constable Murphy said:

"On the available evidence, the police are satisfied that the death of Raymond Basil De Thierry was the result of an accident and that they do not consider that there are any suspicious circumstances or that there was any other person involved".

[3.3.5] The Police National Dive Squad Report identified the circumstances of the drowning of Raymond De Thierry in similar terms to the evidence given by witnesses to the Inquest. There was some doubt as to whether paragraph 3.10 of the National Dive Squad Report was correct, and I find the evidence surrounding the calling for help by Raymond De Thierry equivocal.

[3.3.5.1] The Police National Dive Squad Report identified the equipment used by Raymond De Thierry, but did not consider that any, apart from the weight belt, was a contributing factor to the death. The Police Dive Squad did comment that if Raymond De Thierry had worn swim fins this may have assisted his self-recovery.

[3.3.5.2] The weight belt worn by Raymond de Thierry was described precisely in the Dive Squad Report. The weight belt did not have a quick release buckle which would enable a user to release the belt quickly if they found themselves in difficulty, and could enable other rescuers to quickly release if they similarly discover a difficulty. As a qualified and experienced diver Raymond de Thierry would have been taught to release his weight belt if he encountered a difficulty and required to become positively buoyant. As he did not carry a knife, with which he could have cut the weight belt, and as it did not have a conventional quick release mechanism, he would have found it difficult to have retrieved himself from his predicament. The Dive Squad Report also mentioned that if Raymond de Thierry had equipped himself with fins this could have assisted him with self recovery.

[3.3.6] The statement of Operations Manager Goudge, for The Order of St John identified types of rescue call attended by St John. Manager Goudge also provided, at my request, a timeline of the tasking of assistance to Stewart Island. I will comment further on this.

[4] Issues/Reasons

[4.1] An Inquest is held to establish the fact that a person has died, when and where the person died, the identity of the person, the causes of the death and the circumstances of the death.

[4.2] The cause of the death of Raymond de Thierry was established at autopsy as drowning. All other criteria have been addressed. It remains for me to identify the circumstances of the death. The circumstances are appropriately analysed by the Dive Squad in its report, which I paraphrase:

"Raymond de Thierry was, apart from the issue of the weight belt and fins, appropriately dressed and equipped to gather paua in the location he had chosen. It is most likely that, whilst in the water, he was knocked off his feet by a surge of waves and dragged under into the kelp or was trapped in the kelp. Because he was not equipped with fins and because he was unable to attain positive buoyancy due to an inability to release himself from his weight belt, Raymond de Thierry was unable to gain safety and would have succumbed to the water, lapsed into unconsciousness and drowned".

[4.3] At the Inquest hearing I attempted to address the issue of the tasking of rescue resources, specifically a helicopter. The helicopter chosen by Southern Communications and St John was based at Te Anau. For a variety of reasons the helicopter was unable to take off as soon as had been hoped for and had quite a lengthy flight time to reach Murray Beach on Stuart Island.

[4.4] Representations received by me and comments made by Police witness, Constable Murphy, suggest that the earlier tasking of rescue services may have resulted in a different outcome. As I understand matters, there was helicopter assistance available based in Stewart Island with a significantly shorter travel time than the helicopter from Te Anau. Experienced and qualified nurse practitioner, assistance was available on Stewart Island, Such evidence as I have available to me, however, indicates that Raymond de Thierry had drowned and was deceased and irrecoverable at the time he was discovered by Blair de Thierry and Justin Eddy. Even if specialist rescue assistance in the form of a helicopter from Oban in Half Moon Bay, Stewart Island, and a nurse practitioner had been tasked immediately, it is most probable that any resuscitation attempts would have been unsuccessful.

[4.5] Notwithstanding this aspect of my Finding I will, in my Recommendations, address this issue further.

[5] Recommendation

[5.1] I recommend that a copy of this Finding be forwarded to The Order of St John and to Southern Communications drawing to the attention of those organisations the need for early recognition to be given to available rescue resources. The availability of helicopter and appropriate medical support in regions needs to be constantly updated so that the most appropriate support is tasked to an incident.

[5.2] I adopt the recommendations in the Dive Squad Report: "The following are recommendations for free divers:

- Ensure persons dive with a dive buddy.
- Do not enter the water in adverse conditions.
- Wear fins while free diving.
- Use a weight belt with a quick release buckle.
- If in difficulty on the water surface abandon the weight belt and catch bag early before the situation manifests or gets out of hand.
- Carry a knife."

[5.3] I recommend that a copy of this Finding be sent to Water Safety New Zealand, the National Diving Coordinator, Occupational Safety and Health, and Dive New Zealand Magazine to ensure that publicity is given to the circumstances of the death so as to comply with my obligations under section 57(3) of the Coroners Act 2006.

[6] Finding

[6.1] I find that: Raymond Basil de Thierry of Dunedin, a security officer, died on the 6th April 2009 at Murrays Beach, Stewart Island, when whilst collecting paua in the sea, he lost his footing, was unable to gain safe ground, and drowned.

[7] Conclusion

[7.1] I acknowledge the assistance given by all witnesses giving evidence to the Inquest Hearing and to Mrs Kate de Thierry for her contribution and cooperation,

[7.2] I extend my condolences to Mrs Kate de Thierry, Mr Blair de Thierry and to their extended family and friends for their loss.

Signed by the Chief Coroner at Dunedin on 09 July.2010 on behalf of, and in the absence of, Coroner D.O. Crerar wh released his Provisional Finding on the 06th May 2010.
Judge AN MacLean Chief Coroner

CORONIAL INQUEST DE THIERRY, Raymond Basil CSU-2009-DUN-000112