

Patrick Farrell



I am submitting my submission including my Victim Impact Statement as the SWA template is too complicated to complete.

Submission

My overriding sense is that Worksafe is failing. The reasons for this are beyond my comprehension. However, with one of the primary responsibilities of Worksafe as the regulator being to uphold safety and standards within the workplace and also assuring the safety of the end user, it must have the mechanisms, legal provisions, an appropriate level of qualification and experience and compliment of staff and ultimately the will and authority to hold failures by duty holders to account.

For the regulator to be failing it:

Allows a cavalier and arrogant attitude to override safety, which potentially could also allow profit to undermine safety.

Lead to a breakdown in confidence of the public.

Allow corruption and undermine the legal system.

Allow members of the public to be seriously injured or die through no fault of their own.

Lack of accountability of OIR Investigator's failings or misrepresentations of evidence and their false claims counter to evidence provided at Inquest. Surely, if it is established even through their own evidence that they stated falsities or submitted legal reports misrepresenting evidence this should be investigated independently and they should face sanctions. I provide two examples which I feel warranted accountability by the Investigator of my daughter's death:

Prescribed Medication

- *As part of the Wings Boat Trip Induction/Brief all guests were required to complete some documents, one of the questions was "Are you currently taking prescription medication?"*
 - *Bethany had been prescribed medication which, as an aside, I should point out had no side-effects or contra indicators that would deem a risk to Diving Activities!*

- *Bethany was at near end of her 3-month prescription.*
- *I know from my discussions with Bethany and from discussions with friends of Bethany that she had intended not to request a further prescription.*
- *Bethany had decided not to take this medicine when her skin was likely to be exposed to 'the sun' (as per the warnings provided with the tablets).*
- *In a 'nutshell' it would have made no sense for her to be taking this medicine whilst on a Diving trip to the 'Great Barrier Reef'.*
- ***The autopsy results showed no traces of this or any other Medicine.***

However, whilst the Police were recovering Bethany's personal effects from the 'Youth Hostel' (note, to avoid any confusion, that this was not from any belongings she had with her whilst undertaking this Diving Trip!) they noted the existence of this medicine.

Despite the above the investigator decided that Bethany as a 'Duty Holder' had 'failed to disclose that she was taking medication to Wings and highlighted in a red outlines box this 'presumed failure' on at least six occasions in his legal summary and in support of the other 'Duty Holders – the workers in this instance!'

- *The muted suggestion being that 'had Bethany declared this to the Wings staff, they would have been in a 'better informed' position and may well have of not allowed her to Dive.*
- *What is even worse is the unforgiveable significance, that through this action, the investigator was also formally questioning the integrity of my deceased daughter by stating she had failed to declare this (i.e., she had lied). This document was presented to the judge at the Proserpine Magistrates hearing in March 2017.*
- *I understand that such factors where relevant and where proof exists should be included in legal briefs, but only 'where relevant and supported by evidence'.*
- *It should be noted that the investigator at cross examination confirmed **the blister packs were unopened and no tablets were missing** - i.e. there was absolutely no suggestion to support an assumption that Bethany had taken a tablet that day and certainly no evidence to support that she had taken them on this boat trip.*
- ***In short, there is absolutely no evidence that Bethany had recently taken the said medication.*** Surely, an investigator should face disciplinary action if they falsely present evidence to support their own agenda!

'Minimum 42 or Maximum 78 seconds' – 'only a matter of seconds'

The other example I would like to bring forward is the fact that data was available to the Investigator to show that Bethany (after the Instructor had lost her) had reached the surface of the sea and managed to stay on the surface for possibly as long as 78 seconds, but a minimum of 39 seconds. The Coroner stated this to be a minimum of 40 seconds!

However, to my complete astonishment the Investigator on numerous occasions in his report referred to Bethany being on the surface 'only a matter of seconds'.

This, I feel was misleading and the investigator appears to have been guided, once more by the workers, rather than thoroughly considering the information that had been provided by Dive Experts and the data that was available on the dive watches worn by Bethany and her instructor.

My understanding is that 'legal arguments' surround the actual time period that Bethany was on the surface. Essentially, it has been established that the Dive Computer that was issued to Bethany recorded that she was on the surface between 42 and 78 seconds, however the argument being presented by OIR and backed by ODPP is that as the Dive Computer pauses recording at -1 m and as such it could be argued that Bethany was possibly not actually on the surface for the duration of this time period.

From a layman's perspective, bearing in mind that the Dive Computer was attached to Bethany's waist, Bethany was recorded as being 1.68 m, so out of an abundance of caution let us say that Bethany's waist is .7m from the top of her head, then the Dive Computer which would also have possibly been dangling down may well have been around 1 m lower than top of Bethany's head. I am absolutely amazed that this positioning has not been discussed further in the investigation report or any of the legal reviews and would like to have some clarification over this matter:

- I find it unthinkable that the Dive Computer records should be called into question and that indeed it should be accepted that Bethany was on the surface for a period of time, of not less than 42 seconds, but technically possible between 42 and 78 seconds, unless of course the Dive Computer was not found attached around Bethany's waistline.*
- Is it really plausible to consider that after Bethany made such an effort to ascend to the surface, that she would break through the water line and then bob up and down between water level and -1m?*
- Is it really plausible to consider that she assumed a position other than broadly vertical? We know that she had weights placed in her BCD which of course would have a gravitational effect downwards and not support a possibility of her being in a horizontal position under the water (which could be the only plausible possibility for a surface look-out not to spot a diver in distress). I think to suggest that she (and her Dive Computer) were somehow floating under the surface and bobbing up momentarily between water level and -1 m every 20 seconds does not warrant any serious argument.*

In addition to the above, there is also witness testimony and statements to show that Bethany was heard to scream and wave her arms for attention. This testimony came from the New Horizons crew, the snorkellers and a number of people on the beach! All this happened without Croucher's knowledge – how can that be?

I am dumbfounded that legal accountability has not been achieved in these circumstances, there can be no question that the Dive Supervisor was not properly conducting the duties required of him? I feel that the facts speak for themselves in this regard!

I include my Victim Impact Statement below, which provides an insight into

Victim Impact Statement - Patrick Farrell

The title 'Victim Impact Statement' in itself brings confusion. For me my beautiful, kind, thoughtful, intelligent and bubbly daughter Bethany was the real 'Victim' on the 17th February 2015. If I look further than myself, Caron and Jake, I am left with the bewildering sense and awareness of how deeply Bethany's friends and relatives have also been emotionally shattered by the loss of such an incredibly lovely person. Recently one of Bethany's closest friends remarked that "Beth was the epitome of a best friend, so many people thought so." I agreed and responded that she "epitomised everything worth having in life, we were also so her privileged touch".

Bethany was one of the few really decent people who inhabited this earth. She really cared about people and led an inoffensive, gracious and selfless life, bringing joy with her infectious laugh wherever she went. I deeply mourn not just my personal loss, but for everybody who was touched by Bethany's beautiful presence. More so, for all who had yet to meet her and especially for those children who would have been so privileged to call her "Mummy", words that she will never have the delight of hearing.

The day of the 17th February 2015 - When the police sergeant informed me that there had been an accident and Bethany had passed, the intensity of the shock and confusion was incomprehensible, as in my mind I had waved Bethany off from Heathrow the previous week and remember talking to Bethany's mum and saying the trip "would be life changing". Those words now 'haunt me' to this day. The trip to Australia, a country I had previously longed to visit, had led to my beautiful daughter dying alone in the ocean. I was later to learn that her last breaths were screams for help, wasted as those ears they were meant for were too busy and too far away to hear.

The last time I spoke with Bethany was the Sunday evening before she left for the boat trip. She called me from the hostel she was staying at and excitedly told me that she was leaving for a 3 days and 3 nights boat trip in the morning. She was not able to talk for too long as there were some other girls larking around noisily in the background, making it difficult for her to hear on the phone. I had no awareness that she would be partaking in Sub Aqua Diving. I regret not having had the opportunity of being able to talk and explain some basic fundamentals, like the importance of the 'inflate button' on the BCD. Who knows whether I would have mentioned it or not, but had I known that she would be left to fend for herself in the middle of an ocean, I most certainly would have. This too haunts me, that I did not know that in Australia of all places, a human life could be placed in such a vulnerable position. There are some countries in the world, where such tragedies are commonplace, but not Australia, how could this be?

I am also haunted in the knowledge that I told Bethany to act quickly and purposefully if she ever felt in danger - In my mind's eye the danger I imagined was a threatening situation with a stranger, rather than taking part in an 'Introductory Dive' on an organised, supervised and professional tour, where she should have been safe at all times. But then, what else could

she do, she was not equipped to deal with the magnitude of whatever happened. I am left knowing that in her last moments of desperation, she would have wanted me with her, as she knew she could always count on her 'Dad'.

I also remember another conversation where Bethany asked my advice about partaking in adventurous activities, such as 'bungee jumping'. I remember explaining that anxiety is a normal human reaction and that she would need to try to balance anxiety with her wish to try something new. But in essence, to go for it and to have fun fulfilling her dreams and to always go with a professionally qualified company.

I encouraged and supported Bethany to travel to Australia - all of these things have weighed heavy in my heart every day since that horrendous day that Bethany died whilst living her dream - and will no doubt weigh heavily on me for the rest of my life.

My pain has been only been worsened through witnessing the emotional devastation that my son Jake has suffered.

Jake is Bethany's younger brother and is now 22 years old. They had a very close relationship as the only children of divorced parents. Caron and I broke up when Bethany was 9 and Jake was 6 years old. Bethany was an amazing sister to Jake - she was his confidant, his constant, his source of emotional strength. She was everything to Jake and he everything to her!

I have achieved much of what I have set out to in life, I have had a successful military career. After this I achieved a BSc (Hons) as a mature student and went on to embark on a new career path. My long time personal and professional aspiration was to be a mental health professional and I qualified as a therapist in 2008. Through a variety of appointments, further training, qualifications and further experience, culminating in training and qualifying as a Trauma Therapist, I began working with the local NHS Military Veterans Team – and in early 2015 I was approaching the point of opening up my own private practice. The Impact of Bethany's death has led me to ceasing this work and as such losing the immense personal and professional satisfaction I gained from this area of work. I am no longer as patient, forgiving or tolerant, as I once was and can also be found to be quite irritable at times.

All said and done and irrelevant of anything else that I may or may not have achieved, the most satisfying, rewarding and most important role I have had the honour to hold, is that of being a 'Father'. Bethany, as my first child gave me so very much, I learned so much about myself and felt a love and responsibility I had never experienced, she was always so special and her loss has left a void in my life that can never be filled.

I hope and trust that the judge awards the maximum levels of punishment at their disposal in order to reflect not only the flagrant disregard for safety that was shown that day, but also to make it clear that where a 'Duty Holder' fails to effect their responsibilities, they will be absolutely held to account for themselves.

Improvements to the support of families:

Areas which I feel could assist families further are as follows:

Lack of facilitation of travel assistance – a provision to support families financially to enable travel for Court, Inquest or other necessary formalities.

Lack of free provision of Transcripts for Court, Inquest or other hearings – I was appalled to learn that I would have to pay for transcripts from The Inquest into Bethany's death, this put me at a disadvantage to Workplace and other government organisations who are able to receive a 'pro bono' copy.