



OFFICE OF THE STATE CORONER

FINDINGS OF INQUEST

CITATION: **Inquest into the death of Elliott John Coulson**

TITLE OF COURT: Coroner's Court

JURISDICTION: Brisbane

FILE NO(s): 2013/1448

DELIVERED ON: 4 November 2013

DELIVERED AT: Brisbane

HEARING DATE(s): 28 October 2013

FINDINGS OF: Ms Christine Clements, Deputy State Coroner

CATCHWORDS: CORONERS: Inquest – Death in custody, execution of extra-territorial search warrant, death so as to avoid being placed in police custody

REPRESENTATION:

Counsel Assisting QLD Police Commissioner	Miss Emily Cooper Ms Melanie Johnston (QPS Solicitor's Office)
NSW Police Commissioner	Mr Patrick Saidi (McCobes Solicitors)
Detective Sergeant Stephen Hunt	Mr Stephen Wilkinson (instructed by Walter Madden Jenkins)
Detective Sergeant Jonathan Birt & Detective Senior Constable Nicholas Finn	Mr Calvin Gnech (QPU Legal Group)

Introduction

Elliott John Coulson was born on 15 March 1981. He died on 24 April 2013 at the Marriott Hotel, at Surfers Paradise in Queensland. Mr Coulson was a seaman in the Royal Australian Navy. He was 32 years of age at the time of his death.

Mr Coulson died due to multiple injuries caused by a fall from the 26th floor balcony of his room at the Marriott. This fall occurred in a short period of time immediately following the entry to his hotel suite by members of the Queensland and New South Wales police. They were there to execute a search warrant issued in accordance with the *Police Powers and Responsibilities Act 2000*¹.

Mr Coulson's death was reported to the State Coroner as a death in custody. Section 10 of the Coroners Act defines a death in custody as –

A person's death is a 'death in custody' if, when the person died, the person was –

- (a) in custody; or
- (b) escaping, or trying to escape, from custody; or
- (c) trying to avoid being put into custody.

'Custody' is defined to mean – detention, whether or not by a police officer, under –

- (a) an arrest; or
- (b) the authority of a court order.

Background

At the time of his death, Mr Coulson was posted to *HMAS Darwin*, which was in dry dock at Garden Island Naval Base in Sydney. His parents, sister and other family members resided in Queensland.

At about 1:45pm on 22 April 2013, New South Wales police had discovered the body of a young woman at a unit in Mossman, Sydney. She was identified as Kate Malonyay, aged 32. Due to partial decomposition of her body, it was apparent Ms Malonyay had been dead for two or more days. She had sustained traumatic injuries and her death was investigated by New South Wales police as an unlawful homicide.

The information leading New South Wales police to the discovery of her body had been provided by two of Ms Malonyay's friends who were also work colleagues. They knew Ms Malonyay had been in a relationship with Elliott Coulson. They had met Mr Coulson in social situations with Ms Malonyay in December 2012 and had been alarmed and concerned with Mr Coulson's aggressive and controlling behaviour. By January Ms Malonyay confided she had broken up with Mr Coulson.

¹ Queensland 2000

Ms Malonyay was last seen by her friends at work on 17 April 2013. By this time Ms Malonyay had been in direct contact with Mr Coulson's family and discovered that many things she had been told by Mr Coulson were false.

By 19 April Ms Malonyay's friends were concerned that she was absent from work. When she was still absent from work on Monday 22 April the matter was reported to police.

After Ms Malonyay's body had been discovered her friends were still receiving texts allegedly sent by Ms Malonyay from her phone. Police commenced their investigation.

They identified Mr Coulson as a person of interest. Enquiries with the Royal Australian Navy confirmed Mr Coulson had failed to return to work following leave on 20 April 2013. The Royal Australian Navy indicated his supervising officer contacted Mr Coulson on 22 April. Mr Coulson advised he was in Queensland awaiting medical tests about a family member and would return to base on 23 April 2013.

New South Wales police then further investigated Ms Malonyay's mobile telephone service as well as the mobile telephone service belonging to Mr Coulson.

They established Mr Coulson had travelled from Sydney at 3:10pm on Friday 19 April and arrived in Coolangatta, Queensland later that afternoon.

Further investigation of the whereabouts of the mobile phones confirmed Mr Coulson was at the Main Beach area of the Gold Coast. They discovered Mr Coulson was staying at the Marriott Hotel at Ferny Avenue, Surfers Paradise by the 22 April. He had initially stayed with his parents over the weekend before moving into room 2607 at the Marriott Hotel.

New South Wales police liaised with Queensland police and made arrangements to travel to the Gold Coast. Their purpose was to obtain a search warrant to secure the mobile phones as evidence in relation to the death of Ms Malonyay.

Detective Sergeant Stephen Hunt and Detective Senior Constable Kelsey Priestly travelled to Queensland. After liaising with Queensland police, a Queensland police officer, Detective Senior Constable Nicholas Finn, applied for a search warrant under *Police Powers and Responsibilities Act 2000*. The application sought to enter the Marriott Hotel room occupied by Mr Coulson and confiscate two designated mobile telephones and a credit card in the name of Kate Malonyay.

Magistrate Johnstone granted the search warrant at 10:35am on 24 April 2013. The warrant included the power to enter, search and seize the designated items. The warrant also included 'If the police officer reasonably suspects a person on the relevant place has been involved in the commission

of an offence, power to detain the person for the time taken to search the place.¹²

The search warrant related to an offence stated as – ‘That on a date unknown between the 16 April 2013 and the 23 April 2013 at Mossman in the State of New South Wales one Elliott John Coulson murdered one Kate Malonyay.’

Execution of the warrant

The New South Wales and Queensland police officers assembled at the Marriott Hotel. A briefing was conducted and a plan developed to take Mr Coulson into custody. Marriott Hotel staff assisted police in providing a 4th floor room with identical floor plan to facilitate police planning. Room 408 was different from room 2607 in one detail. The room on the 4th floor had a large terrace balcony whereas the room on the 26th level had three separate balconies from the suite.

There were two separate entries to the suite of rooms called ‘Room 2607’. The main entry was a double door and the second entry was a service entry into a small kitchen area. The plan involved two teams of police officers approaching the separate entrances. Each team was accompanied by a hotel employee who would simultaneously use electronic swipe cards to open the doors to the suite.

Detective Sergeant Stephen Hunt from New South Wales as well as Detective Senior Constable Nicholas Finn and Detective Sergeant Jonathan Birt from the Queensland Police Service gave evidence at the inquest.

Detective Sergeant Hunt confirmed it was the intention to apprehend Mr Coulson if he was discovered in the suite.

The plan that had been prepared by the joint police officers’ team was led by Detective Sergeant Groenhuijzen of the Queensland Police Service. Some police were armed and the plan was to enter through the main entrance and search the lounge and bedroom as quickly as possible. The second group was to enter through the service door into the kitchen and through to the dining room. A third group of officers remained downstairs at the lobby to guard against the possibility Mr Coulson may have left the suite whilst the police were travelling upstairs via the lift.

It was acknowledged there were different views as to whether or not police would announce themselves as police upon entry or enter the rooms in the guise of room service. It was also acknowledged that police were conscious they had to move swiftly and search for the mobile phones and Mr Coulson, particularly as the suite was on the 26th level with balconies. There was the possibility of loss of evidence and the risk associated with the elevation.

² Exhibit C2

Detective Sergeant Hunt could not recall any previous discussion or consideration of the possibility that safety chains might be in place when police attempted to gain entry to the rooms. It was an oversight.

Mr Coulson did not have a criminal history in New South Wales and only a very minor history in Queensland. Nor did police have any information indicating a mental health problem.

Detective Sergeant Hunt confirmed he was in the group that approached the service door. When the hotel employee activated the swipe card it became apparent both entries had been secured by application of the security bar from the inside. Detective Sergeant Hunt said the door opened a couple of inches only. He confirmed the Queensland Detective Sergeant Birt kicked the door a number of times to gain entry and Officer Birt proceeded into the suite ahead of Detective Sergeant Hunt. They went through the kitchen area into the dining area and then the main living area. He was two or three steps behind Detective Sergeant Birt. He realised they were the only team in the unit and the other team had not gained entry through the main doors.

Detective Sergeant Hunt said he called out 'Police' once as they entered.

He said events happened very quickly and Detective Sergeant Birt said 'He's on the balcony.' He said Officer Birt moved toward the balcony quickly and pulled the door open. Detective Sergeant Hunt's view was blocked partially by Detective Sergeant Birt ahead of him, but he recalls partially seeing Mr Coulson facing towards them on the other side of the balcony.

He said he had not seen him before this observation. He could only see the left hand side of Mr Coulson. He appeared to have his feet on something like a ledge and he was holding onto the balcony. He could see Mr Coulson's left hand only.

He said as he was still moving forwards he saw Mr Coulson 'push with his left hand' and then just float and fall away. Mr Coulson did not say a word.

In Detective Sergeant Hunt's observation he considered Mr Coulson's movement of his hands pushing away from the balcony was deliberate.

He did not see Detective Sergeant Birt's hand or arm come into contact with Mr Coulson's arm.

He confirmed he looked over the balcony and saw Mr Coulson strike a wall and then fall through a lower roof area. He did not see his resting place.

Detective Sergeant Hunt recalls he was on the balcony by this time with Detective Sergeant Birt who told him he had tried to grab Mr Coulson.

There was a brief reactionary conversation between the officers in response to what they had just seen occur.

They immediately returned to the unit area. The other team had still not entered the premises. They observed two mobile phones and a number of bottles of wine and beer. Phone calls were immediately made for emergency services and to report what had occurred to senior officers. The team of officers Hunt, Birt and Kelsey immediately left the unit.

Detective Sergeant Hunt confirmed he was directed by senior Queensland police to separate from each other and not to discuss what had occurred.

All officers involved in the operation were breath tested and submitted urine samples which were all clear.

Detective Senior Constable Nicholas Finn of the Queensland Police Service was in the team which approached the main entry of the double doors. Detective Senior Constable Finn confirmed he recorded the entry into the room via a digital voice recorder which was activated immediately prior to the attempt to enter the suite. That record was played to the inquest. Significantly, it reveals the events that occurred upon the police attempting to enter the room, culminating in Mr Coulson's fall from the balcony, occurred in under two minutes. He confirmed that when the access card was applied to the main entry, Detective Sergeant Groenhuijzen called out 'room service' before it was attempted. When the security bar barred entry, the attempts to enter by physical force were unsuccessful. Within a very short time he heard from the other team members within the unit the words 'He's gone.' The recording of the execution of the warrant on the digital recorder was played to the court. The recording from the point of entry was one minute, 53 seconds in duration.

When officers regrouped at the ground level they discovered one of the Queensland police officers holding Mr Coulson's head out of the water. He had landed in a shallow water feature in the hotel pool area. It was immediately apparent he was deceased.

Officer Finn confirmed he was also directed not to discuss the circumstances.

Detective Sergeant Jonathan Birt of the Queensland Police Service Homicide Investigation Unit gave evidence. He confirmed he was the officer who successfully gained entry via the service door by kicking it and breaking the security bar.

He also confirmed there had been no consideration of the engagement of the security chain because the police had involved hotel staff in their planning. This possibility had not been raised.

Detective Sergeant Birt confirmed he was mindful that they were entering rooms on the 26th level and it was always the intention to quickly secure Mr Coulson bearing this in mind. There was no specific concern in advance that Mr Coulson might commit suicide. It was quite possible, however, that he could attempt to avoid apprehension as he was under suspicion of murder.

On entry Detective Sergeant Birt stated he said 'Police' in a loud voice. He moved rapidly through the kitchenette and dining room. He was a little confused afterwards given the stress of the situation. He said it was on entering the main area that he realised they were the only team inside the unit. Mr Coulson was not in the bedroom and it was when he entered the main room that he suddenly saw Mr Coulson, already on the balcony looking back at him. He said Mr Coulson had a deadpan look and showed no emotion as he locked eyes with him. He immediately had a bad feeling that he was going to jump. The balcony door was closed between them.

He said he lunged to the door and opened it quickly. By the time he did so, Mr Coulson had scaled the balcony glass perimeter rail and turned back to face the officer. He said Mr Coulson's feet were on the edge of the balcony ledge and he was facing the officer. Detective Sergeant Birt immediately moved with his right hand to grab Mr Coulson's right forearm. As he did so, he said Mr Coulson 'just let go'. Detective Sergeant Birt made physical contact with his right hand on Mr Coulson's right forearm but Mr Coulson slipped through his grasp and fell away, looking back at Detective Sergeant Birt. He said nothing.

The officer looked for a short period and then looked away. He looked again and saw Mr Coulson crashing through a roof.

Detective Sergeant Birt stated Mr Coulson seemed to be very much in control of himself. He was standing there and then just let go and fell away.

Detective Sergeant Birt was unsurprisingly shocked and there was some vocalisation of the distress and shock between the officers at what they had just witnessed.

They immediately did a quick clearance of the room to ensure there were no other people present before leaving and informing the other team of what had occurred.

He did not discuss the matter further with any other officer.

In retrospect he considered the briefing and preparation was thoroughly performed. The only unexpected hitch was in the initial short delay before entry to the unit due to the internal security bars being in place.

Detective Sergeant Birt was quite clear that Mr Coulson's action was a very deliberate move away from the balcony.

Investigation and review

The investigation of the death of Elliott Coulson and the circumstances leading to this were thoroughly, competently and promptly performed. The protocols established to investigate deaths in custody in accordance with the Coroners Act, and Queensland Police Operational Procedures Manual were complied with.

Ms Malonyay's credit card and phone as well as the mobile phone belonging to Elliott Coulson were seized from the premises.

This inquest does not draw any conclusions regarding the death of Kate Malonyay which is being separately investigated by the New South Wales Coroner.

I am satisfied that the Ethical Standards Command conducted the investigation of Mr Coulson's death in a thorough and expeditious manner. This has meant the conclusion can be confidently reached that both Queensland and New South Wales police officers involved in the investigation, surveillance, obtaining and execution of the warrant have done so in a lawful manner.

It is concluded that although Elliott John Coulson's death is designated a death in custody pursuant to s. 10 of the Coroners Act, Mr Coulson caused his own death. I accept the evidence that Mr Coulson deliberately climbed over the balcony perimeter fence and then let go of the rail, falling to his death.

Autopsy examination included toxicology testing. This revealed a blood alcohol level of 245mg/100mL. The level in urine was 320mg/100mL. The level recorded in vitreous fluid was 252mg/100mL. No other drugs were detected.

It is concluded Mr Coulson's actions in climbing the balcony and letting go of the rail occurred at a time when he was significantly adversely affected by alcohol and also in personal circumstances of knowing he was facing criminal charges in relation to the death of Kate Malonyay.

The findings pursuant to s. 45 of the Coroners Act are –

- (a) The identity of the deceased is Elliott John Coulson.
- (b) Mr Coulson died after deliberately falling from the 26th floor of the Marriott Hotel. He was significantly intoxicated at the time and in the moments leading up to his death, Mr Coulson became aware that police were forcing entry into his hotel room. He caused his own death avoiding being placed in police custody.
- (c) Mr Coulson died on 24 April 2013.
- (d) Mr Coulson died at the Marriott Hotel, Ferny Avenue, Surfers Paradise in the State of Queensland.
- (e) Mr Coulson died due to multiple injuries sustained in the fall.

There are no matters warranting coronial comment.

The inquest is closed.

Christine Clements
Deputy State Coroner
4 November 2013