

1 October 2013

**MEDIA STATEMENT FROM DEPUTY SOLICITOR-GENERAL, CROWN LAW OFFICE CONCERNING REQUEST FOR A SECOND CORONIAL INQUIRY INTO THE CIRCUMSTANCES SURROUNDING THE DEATH OF CORPORAL DOUGLAS HUGHES OF THE NEW ZEALAND DEFENCE FORCE**

On March 8 2013, the Solicitor-General received a request from Ms Poa to consider ordering a second Coronial Inquiry into the circumstances surrounding the death of her son, Corporal Douglas Hughes of the New Zealand Defence Force (NZDF). On 14 March 2013, the Solicitor-General received a similar request from Andrew Little and the Honourable Phil Goff, the respective Labour Party spokespeople for Justice and Defence at that time.

Both requests were made under section 95 of the Coroners Act 2006 (“the Act”), which provides for the Solicitor-General, or the High Court, to order an inquiry in instances where the Coroner has failed or refused to do so. Pursuant to section 9C (2) of the Constitution Act 1986, the Solicitor-General delegated the consideration of both applications to me, in my capacity as Deputy Solicitor-General.

Prior to providing my decision, I wish to clarify that the Crown Law Office does not routinely make public statements regarding cases in progress or decisions under consideration. However, an exception to that principle seems appropriate in this instance, given the particularly strong media and public interest in the circumstances surrounding the death of Corporal Hughes and the resulting Inquiries.

I also wish to clarify the purpose of a Coronial Inquiry. Sections 4(2) and 57 of the Coroners Act together articulate the specific objectives a Coronial Inquiry must fulfil. Its function is to determine the facts surrounding cause of death and to make recommendations that assist in the prevention of similar deaths. Although an inquiry addresses sensitive information, it does not seek to apportion blame or function as a general public inquiry.

The examination of the circumstances surrounding the death of Corporal Hughes was initially referred to Coroner Matenga, who opened an Inquiry into the matter. This Inquiry was subsequently adjourned, pursuant to section s 69 of the Act, pending the completion of a New Zealand Defence Force (NZDF) Court of Inquiry into the same matter.

The NZDF Court of Inquiry provided its final report on 11 October 2012. After considering this report, Coroner Matenga decided, in accordance with s 70(2) of the Act, not to resume the original inquest - being satisfied that both the process and outcomes of the NZDF Court of Inquiry had fulfilled the purpose of a Coronial Inquiry, as defined within sections 4(2) and 57 of the Coroners Act.

In making my own decision upon the requests received from Ms Poa, Mr Little and Hon. Phil Goff, I have essentially considered whether Coroner Matenga's decision not to resume his Inquiry was correct.

I note that section 95 of the Act, under which I received both requests, does not apply to these circumstances. Coroner Matenga did not refuse to conduct an inquiry. Rather, he opened and suspended one in accordance with the provisions of the Coroners Act.

Therefore, I have considered both requests under section 97 of the Act, which provides for the Solicitor-General, or High Court, to order a second inquiry if deemed justified due to "fraud, rejection of evidence, irregularity of proceedings, or discovery of new facts, or for any other sufficient reason".

The decision whether to exercise my powers under this provision has been approached with the utmost care and responsibility. I have taken into account the full range of facts and evidence and applied the appropriate legal tests – including a robust assessment of all relevant statutory provisions, principles issuing from similar previous matters, interests of justice considerations, and the level of independence demonstrated by the NZDF Court of Inquiry. I have also carefully considered whether information provided to me by the family of Corporal Hughes constituted new evidence, whether its admission in the Court of Inquiry would have materially altered the Inquiry's findings, conclusions and recommendations, and whether a procedural irregularity occurred due to the presentation of this information not being sought by the Court of Inquiry.

Based on these considerations, I have concluded that the information I received from Corporal Hughes' family does not constitute new evidence under section 97 of the Act and would not have materially altered the Court of Inquiry's outcomes. Nor have I found an example of irregularity or insufficient independence in the original proceedings that would justify a further inquiry. I have therefore determined that a second Coronial Inquiry into the death of Corporal Douglas Hughes is not in the overall interests of justice.

In concluding this statement, I wish to acknowledge the particularly difficult circumstances that surround cases such as the death of Corporal Hughes. I do extend my sympathy to Ms Poa and her family.

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