

DEATH IN THE DOCKLANDS

Ten years after a young man drowned in the Grand Canal basin, a judicial report into the circumstances of his death has not offered the answers that his family were hoping for



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John Kelly was at an optimistic point of his young life this time ten years ago. The 24-year-old had just completed an alcohol treatment course. A “real grafter” according to his sister Lorraine, he had just started a new job as a labourer and was saving to move to Australia with his other sister, Amanda and her husband, Seanie. “He was just sorting his stuff out,” said Emma, one of his five older sisters in a close-knit family of eight.

But his life was cut short. In the early hours of October 16, 2008 he perished in the murky waters of the Grand Canal basin in Dublin. He had boarded a train in Athy, Co Kildare, earlier that evening and after getting off at Heuston Station, made his way towards the city’s docklands, instead of to his sister’s house where he was supposed to have been staying that night.

The Kelly family have struggled to understand how

he ended up in the docklands area and what happened in the hours running up to his death. They believe those issues have never been properly investigated.

As the tenth anniversary of his death approaches, his family have been furnished with a report by retired High Court judge Daniel Herbert, ordered by the Department of Justice. It criticises the Garda response to emergency calls on the night of his death, but says the investigation thereafter was “thorough and sufficient”.

The Kelly family had hoped the report would bring them some sense of closure. Instead, they say, the report has left them unsatisfied and frustrated. They say it does not provide them with answers to the many questions that remain. They see the review as a box-ticking exercise by politicians who wanted them to simply shut up.

Botched response

The area of the docklands where John drowned is simultaneously one of the most central and one of the most isolated parts of Dublin. The regeneration of the area, where the river Liffey meets the canal, was in its early stages in 2008. The gleaming buildings and hip cafés that characterise it today had al-



Emma and Lorraine Kelly, whose brother John (below) drowned at Grand Canal Dock in Dublin a decade ago
Picture: Fergal Phillips

ready begun to open.

At the time, that part of Britain Quay – a site which had been earmarked for the U2 Tower – was a wasteland of rubble and rusting railings, close to an old lock and across from the O2 Arena. Now it is a construction site where a state-of-the-art office block is being built.

The night of October 15 was very cold, windy and pitch dark. The public lighting had been disconnected from the supply the previous April, according to the Herbert report, following an “unlawful and extremely dangerous attempt to abstract electricity from the system”.

At about half past midnight, residents in the Portview apartments started hearing noise. The first call was made

to the 112 emergency phone line at 12.28am by a resident saying they could hear a man shouting “hey”. Garda command and control directed mobile or foot patrols available in the area to go to the location and investigate.

Ten minutes later, another resident phoned Irishtown Garda station and said a man had been shouting intermittently, what sounded to her like “Claire”. She went out to the balcony and thought she saw a shape in the water. It was cold and dark, and the tide was really high. She was told it was “not their area, that it was Pearse Street area”, but that they would get someone to check it out. The call was not recorded. It was not entered into the computerised aided dispatch system.

A couple of minutes later, Garda command and control at Harcourt Street dispatched the Irishtown Garda patrol car to the canal opposite the Portview apartments.

The crew arrived at 12.43am on the wrong side of the apartments: the river Liffey rather than the canal side. They spent not more than two minutes outside the patrol car before reporting back “GOARR – gone on arrival – back to command”.

A couple of minutes later, another resident finally made contact with Irishtown Garda station. She had, around 20 minutes earlier, phoned directory enquiries, having been woken by the intermittent cries of a young man.

She was directed to Pearse Street Garda station. She was told that this was not in their jurisdiction and was given a number for Tallaght station which gave her a number for Irishtown station. The issue had already gone into abeyance because of the GOARR signal minutes earlier.

A second crew was dispatched and, again, went to the wrong place. Another resident saw gardai with flashlights at the river and went down to direct the crew to where they believed the voice to be coming from, near the barge. That crew requested the assistance of Dublin Fire Brigade.

At 12.57am, five gardai, four female and one student garda, were standing at the edge of the quay attempting to rescue the man. There was a strong outgoing tide. His head went under the water a minute later and, tragically, they were unable to rescue him.

Judge Herbert found that the Garda response to a number of emergency calls was “confused, inappropriate and inadequate”. He said it was “utterly reprehensible” that a female garda at Pearse Street station wrongly told a woman who had phoned from her apartment balcony shortly before the man’s death that the incident was not in her jurisdiction.

The judge recommended that “an urgent investigation be carried out within An Garda Síochána into the capacity of its members attached to ordinary Garda stations to respond correctly and effectively to emergency telephone calls received from members of the public seeking the assistance of the Garda”.

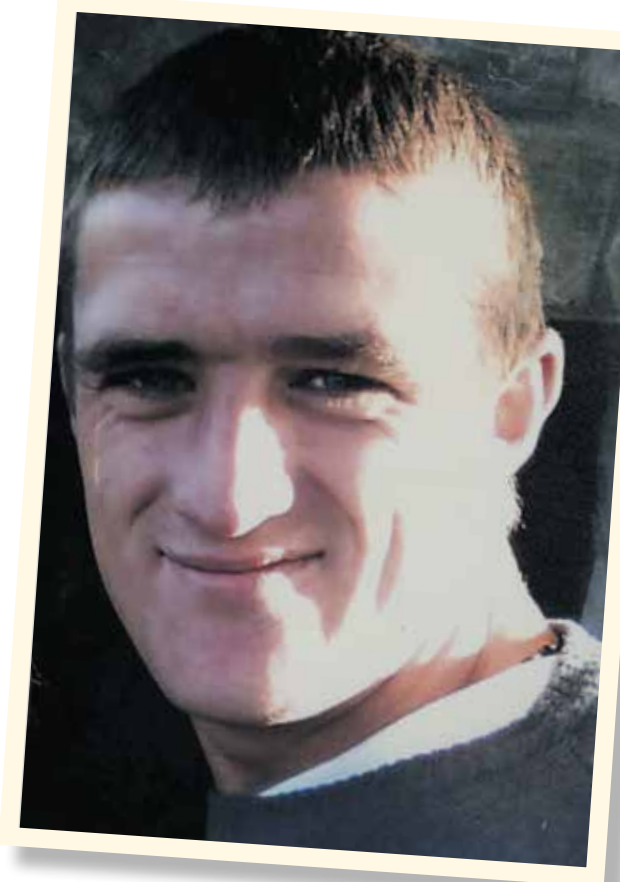
The family are certain that if the response had been adequate, their brother would be alive today. But the judge’s finding offers them little comfort or, they argue, accountability.

The botched response to attempts to alert gardai is just part of the story.

Suspicious

“What in God’s name brought him to that place?” asks Lorraine. “It’s a horrible place in the daytime, not to mind that hour of the night. Something brought him there.”

Almost 12 hours after he went under the water, the Garda sub-aqua team recovered Kelly’s body. The only items found on him were a plastic wallet with two photographs of his family



and a social security card. “Unusually extensive injuries” had been caused to the eyes, ears, nose, lips and neck.

According to the report, the gardai and medical practitioners said these were caused by aquatic life. “In the absence of anything to suggest violence to the person or the commission of a crime, the scene was not preserved nor was the state pathologist called,” the report said. But the family believe Kelly was the victim of an attack.

They point to a number of reasons to back up their claim. First, items he had had in his possession were not recovered with his body. These include a red and white bag from a shoe shop in Athy, a blue plastic bag with some cans of Dutch Gold, a social welfare cheque, his phone and cigarettes. They said a bracelet he had been wearing on his wrist was absent when his remains were found.

The judge found that while he had these items in his possession in Athy, a girl who he spoke to on the train, the last witness he had contact with that evening, said he had a blue bag with him and drank the cans on the train.

The judge noted that CCTV footage showed that when he got off the train at Heuston, he “carried no bags of any sort”. The judge said the details of the bracelet had not been provided to the investigating team at the time and did not provide part of the description given by the girl who he spoke to on the train.

In their claim that the investigation was not thorough, the family point to the fact that, at a meeting with the investigating garda in Pearse Street on December 12, 2008, the garda told them there was no evidence of anything suspicious about the death.

Judge Herbert said this “might have been better left unexpressed until after the inquest and the conclusion of the investigation”.

The Kellys’ suspicions about the adequacy of the Garda investigation were first raised when they became aware of the fact that investigating gardai, when they made door-

locating and interviewing persons reported to them as claiming to know what had happened to the deceased”.

But he concluded that “when investigated, all this supposed information was seen to be based on nothing but baseless loose talk, surmise, conjecture, hearsay, self-delusion and perhaps even worse after the deceased’s family had offered a substantial reward for information”.

He said he was satisfied that the cause of death was drowning and not traumatic injuries suffered before John’s drowning. However, he said, “this does not rule out the possibility of an assault in the course of which the deceased fell or was pushed into the water”.

Judicial review

The inquiry was ordered by Minister for Justice Frances Fitzgerald in April 2017, under Section 42 of the Garda Act. It was one of five cases sent for inquiry following a process of reviewing some 40 cases of alleged Garda malpractice, under a so-called independent review mechanism.

But the Kelly family, and others, say they had expected a lot more from the process they had entered into in good faith that this was a genuine effort to establish accountability. Their solicitor Kevin Winters said the inquiry did not allow for cross-examination of witnesses and was a “desk-top review”.

He said he could not ascertain from the judge what witnesses had been interviewed, nor could he access any transcripts of what they said.

The Kelly family now plans to mount a judicial review of the report’s findings and will submit a request to the attorney general for a fresh inquest into John Kelly’s death. As the years pass, they have watched his friends marry and start families, and wonder what might have been.

Emma Kelly believes that if things had been handled differently by the authorities of his own country, her brother would by now be a citizen of Australia.

Ten years on, the thought of giving up the battle to find the truth of what happened has never crossed their minds. “We can’t. There is so much that we don’t know that is left dangling there, questions we ask ourselves every day,” said Emma.

As they crossed to the spot where their brother had drowned, Lorraine said they owed it to him not to give up. “I can see him up there, smiling down, thinking: ‘They’re my big sisters, they’ll look after me,’” she said.



The thought of giving up the battle to find the truth has never crossed their minds

to-door inquiries in Portview apartments, told interviewees that it was a case of suicide. The judge put this down to “inexperience or lack of discretion”.

John Kelly’s phone was never recovered. His family claim that his mother and sister both tried to call him on October 16, and that the phone rang out at first and in subsequent calls was “turned off”. That, to them, suggests his phone did not go into the water with him. But the judge said he was satisfied that what they had heard was a service tone, not a ring tone.

Conjecture

The location of Kelly’s death was a 7–10 minute walk from where he was last observed on CCTV. While people heard him in his dying moments, he was not seen.

Overall, the judge said the investigating team “spent a great deal of time and effort

CHARTERED ACCOUNTANTS IRELAND LEINSTER SOCIETY

FINALISTS ANNOUNCED FOR PUBLISHED ACCOUNTS AWARDS 2018

Chartered Accountants Ireland Leinster Society has announced the shortlist for its Published Accounts Awards for 2018 which reward companies for excellence in financial reporting in Ireland. The Awards are sponsored by Euronext Dublin, (formerly the Irish Stock Exchange), which is now part of Euronext, the leading pan-European exchange in the Eurozone, covering Belgium, France, Ireland, The Netherlands, Portugal and the UK. This year’s shortlist includes a total of 26 public and private companies, including not-for-profit organisations.

The winners will be announced at a gala event in The Shelbourne Hotel on Thursday 8 November 2018 commencing at 7.30pm with Oliver Callan as MC.



l-r: Justin Feeney, PAA Chair 2018, Orla O’Gorman, Head of Equity Listing Ireland, Euronext Dublin, Front row l-r: Daryl Byrne, CEO, Euronext Dublin and Lorna Larkin, Chairman Leinster Society, Chartered Accountants

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Kerry Group plc
Bank of Ireland Group plc
Kingspan Group plc
Glanbia plc
Green REIT plc
Hibernia REIT plc
Dalata Hotel Group plc

Small/Medium Sized Companies - Main Securities Market

Irish Continental Group plc
IFG Group plc
Kenmare Resources plc
Datalex plc
Irish Companies listed on a Foreign Market
DCC plc
UDG Healthcare plc
Grafton Group plc

Enterprise Securities Market Companies

Malin Corporation plc
Total Produce plc
Origin Enterprises plc

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In addition to the category awards, there are five other awards from across all categories, consisting of an Overall Winner’s Award, a Social Responsibility Reporting Award, a Branding, Communication & Marketing Award and Best Digital Reporting Award.

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This application may be inspected or purchased at a fee not exceeding the reasonable cost of making a copy, at the offices of South Dublin County Council during its public opening hours of 9am – 4pm, Mon-Fri, and a submission or observation may be made to South Dublin County Council in writing and on payment of the prescribed fee (€20.00) within the period of 5 weeks beginning on the date of receipt by South Dublin County Council of the application.

Signed on behalf of the applicant www.joefallon.com