

A Tragic Accident or Homicidal Drowning?

Andrea Zaferes and Walt Hendrick, Lifeguard Systems and RIPTIDE az@teamlgs.com

- *An adolescent drowns in a lake where he frequently swam, and it is ruled accidental. Twenty years later his brother confesses that he and his friends watched a man drown the teenager.*
- *A woman is found drowned in a bathtub. The ruling is accidental drowning. When the woman's husband drowns his second wife, the truth is discovered. Both were murders.*
- *An investigation for possible foul play ensues when a non-swimmer, college student is reported missing. When he is found submerged off a friend's dock, the investigation immediately ceases. Accidental drowning is ruled. Later, RIPTIDE and a private investigator, find blatant red flags of foul play.*

The initial determinations of these actual drowning incidents as accidents are not uncommon. What we believe is uncommon is the discovery of their red flags and the ensuing investigations. How many other homicidal drowning cases are being missed? We believe far too many.

Our experience with thousands of law enforcement, dive team, and medical personnel internationally has convinced us that a large percentage of homicidal drowning incidents are either not sufficiently investigated or are not investigated at all. There are several reasons for this. "Tragic accident" is too common a mindset--one that can cause tunnel vision. The red flags normally found on homicide victims or at the scenes are rarely present, and law enforcement and medical personnel are not trained to recognize the red flags specific to homicidal drowning. The body may not have been recovered. Rescue personnel may destroy evidence. Because drowning evidence is usually circumstantial rather than hard; cases are difficult to investigate and prosecute. Hence drowning cases may be pushed back when case loads are heavy. The drowning determination by process of exclusion can make it difficult to prove whether a victim drowned or was disposed of in the water. Witnesses are often "grieving" family members, which adds to the "tragic accident" mindset. And very importantly, if a drowning is investigated, it is usually motivated by hindsight, after valuable scene evidence has been lost. Therefore, a standard information gathering, incident form to use on every drowning incident would be very helpful.

We believe that as many as twenty percent of child drowning incidents may be homicides. And as we learn more, we suspect that "female" may be a red flag for foul play in illogical child and adult drownings.

Land and water deaths are treated differently. A hunter finds the body of a young man in the woods. A detective, crime scene technician, and coroner arrive to search for signs of foul play. The site is taped off and an officer is stationed to prevent scene contamination. The exact position and condition of the body is documented. Potential evidence is collected.

What if a fisherman discovers this body underwater, and similarly, neither the cause nor manner of death is obvious? Our experience shows that "accidental drowning" is the most likely mindset for arriving personnel. The dive team is called in to recover the body, which may or may not be bagged as it is dragged to shore. Is the body's exact condition and location documented, along with wind, current, and depth? Are water samples taken? Are detectives and a medical examiner called in? Are the underwater and shore areas taped off and searched for possible evidence? Many departments have to answer "no" to most, or all, of these questions.

Compare a dispatch for a toddler found dead at the bottom of basement steps in her home with a call for a toddler found drowned in a bathtub. The crying mother states that she went to answer the phone, was gone for less than two minutes, and, when she returned, found Sally not moving. How are these incidents managed? Are crime scene technicians called in? Is the house well photographed? Are scene temperatures taken? Are family members, neighbors, and babysitters interviewed? Is the family checked for any previous child or spouse deaths? The answers are likely to be "yes" for the basement incident and "no" for the drowning. Without obvious evidence to the contrary, the occurrence of drowning is typically treated as a tragic accident.

The tendency to see drowning incidents as accidents may cause red flags and evidence to be missed at every level of personnel from first responders to medical examiners. Compounding this is that drowning scenes present little or no typical signs of foul play. Victim trauma, signs of struggle at the

scene, and signs of previous abuse, are not typically visible at pure-drowning homicide incidents (i.e. no other violence or cause of death other than drowning).

We are quick to perceive foul play when victims have a bullet in their head or bricks tied to their body, or when the available information is illogical. The vast majority of drowning homicides that do get reported in research papers and coroner reports involve additional forms of violence, such as strangulation, stabbing, or beating.^{1,2,3,4,5,6,7,8} This is not evidence that the majority of drowning homicides include other forms of violence; rather it more likely demonstrates that police and medical personnel more frequently recognize such aggravated drowning homicide incidents, and miss, or fail to gain convictions on, pure-drowning homicides.

Holding a child's head underwater in a tub takes little effort. The little water splashed from the tub is easily wiped away. A non-swimmer pushed into deeper water may not even have subcutaneous bruising. Pure-drowning homicides can be medically undetectable, are effortless to perform, require no perpetrator skill, require little or no clean up, the body does not need to be disposed of, and the perpetrator often receives much sympathetic attention and possibly accidental death life insurance money.

- *A father calls for help when his four year old son drowns in a bathtub. Deputies find the father performing CPR. RIPTIDE contacted the investigators, who had accepted accidental drowning, and helped investigators obtain a confession of premeditated murder.*
- *An infant death is ruled as SIDS by an experienced medical examiner. A later tip sparks an investigation. The mother's boyfriend drowned the infant in a sink because it cried.*
- *While on a boat with her family, a young girl falls out and drowns. Accidental drowning is ruled. Two years later the mother admits that the father hit the girl out of the boat.*

Keep your investigative mind alert when responding to drowning incidents. Ensure that hospital physicians notify police about all drowned or near drowned patients. Pathologists should routinely check the full torso for subcutaneous bruising and other signs of foul play on drowning victims. This is especially important when there are no witnesses, the witnesses knew the victim prior to death, or when the drowning incident seems illogical. If examination of the victim's lungs does not show evidence of water aspiration, other causes of death must be considered. Departments should consider homicidal drowning investigation training.

We also recommend a standard incident form be used on all drowning incidents to better collect and recognize potentially valuable evidence of foul play. This record would also provide research data. If you would like a sample of such a form to review, please contact us.

If you have, or have had, any drowning incidents, please contact us. RIPTIDE, a nonprofit organization, collects case files, autopsy reports, scene and autopsy photographs, and 911 tapes for analysis. The data are used to help medics, law enforcement, prosecutors, coroners, and pathologists identify whether a drowning is accidental, suicidal or homicidal. RIPTIDE also offers assistance with investigations. We also look forward to your questions and comments and to sharing information: RIPTIDE www.rip-tide.org Tel/fax (845) 657-5544, POB 594 Shokan NY 12481, Fax 845-657-5549 az@rip-tide.org

References

1. Copeland A. Homicidal drowning. *Forensic Sci Internat* 1986; 31:247-252.
2. Fanton L, Miras A, Tilhet-Coartet S, et al. The perfect crime: myth or reality? *Am J Forensic Med Pathol* 1998; 19:290-293.
3. Lucas J, Goldfeder LB, Gill JR. Bodies found in the waterways of New York City. *J Forensic Sci* 2002; 47:137-141.
4. Missliwetz J, Stellwag-Carion C. Six cases of premediated murder of adults by drowning. *Arch Kriminol* 1995; 195:75-84.
5. Oishi F. A typical case of homicide and head injuries. *Tokyo ika daigaku Zasshi* 1970; 28:541-548.
6. Pollanen MS. Diatoms and homicide. *Forensic Sci Internat* 1998; 91:29-34.
7. Trubner K, Puschel K. Todesfalle in der Badewanne. *Arch Kriminol* 1991; 188:35-46.
8. Heinemann A, Pusche K. Discrepancies in homicide statistics by suffocation. 1996; 197:129-141.