

Public Prosecutions New Brunswick	Inquests	DPP Guideline 28 March 10, 2003
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Introduction

Under the *Coroners Act* the Chief Coroner has the final decision within the Coroner's Branch on the calling of any inquest. In addition, under section 7 of the *Act*, an inquest must be held when required in writing by a Judge of the Court of Queen's Bench, or a member of the Executive Council.

The policy of the Chief Coroner is to seek advice when appropriate from the investigating Coroner, the investigative agency, and the Regional Crown Prosecutor before making an inquest decision. It is essential for the Chief Coroner to be aware of any possibility of a criminal prosecution in relation to the death, as no inquest should be considered until the criminal process is exhausted.

Section 22 of the *Coroner's Act* authorizes the Coroner to request a Crown Prosecutor to attend and assist at any inquest. All such requests are made to the Director of Public Prosecutions.

Advising on Inquest Decision

In advising the Chief Coroner on an inquest decision, the Regional Crown Prosecutor should be aware of the general objectives concerning the purpose of an inquest that the Chief Coroner may consider when making the decision.

The general objectives which may be accomplished by holding an inquest, as stated in the Coroner's Manual, are as follows:

- to complete an investigation and obtain answers to any of five questions answered by a coroner's investigation (who, how, when, where, and by what means).
- to make public a potential hazard and attempt to obtain recommendations from a coroner's jury to prevent a recurrence of that event.
- to satisfy the community that there was no negligence such as in a hospital or industrial death, or to determine whether a death was an accident or suicide.
- to demonstrate that there is general concern for a member of a certain community.

Request for Counsel

The Director of Public Prosecutions on a request for counsel from the Chief Coroner will contact the Regional Crown Prosecutor to ensure a Crown Prosecutor is assigned to coordinate the service with the Coroner and to act as Counsel to the Coroner at the inquest. The Crown Prosecutor assigned to act as Counsel to the Coroner should review the Coroner's file as soon as possible after the inquest decision is made in order to indicate to the presiding Coroner the witnesses who should be summoned.

Inquests Involving Police Related Deaths

In inquests involving police related deaths the Director of Public Prosecutions will assign a Crown Prosecutor from another region to act as Counsel to the Coroner.

Inquest Function

The function of Counsel to the Coroner at the inquest is twofold:

1. to have carriage and examination of witnesses.
2. to provide advice to the Coroner on points of law and procedure.

Evidence

In general, at a Coroner's Inquest, the rules of evidence are relaxed, and reliable hearsay is admissible. As a matter of practice, Counsel to the Coroner should keep in mind that an inquest should be divided into three separate and distinct phases of evidence:

1. pathological evidence dealing with the cause of death and the identification of the body or bodies.
2. evidence of a narrative nature leading up to the cause of death.
3. evidence dealing with recommendations (if any) that might be forthcoming from the jury.

Inquest Procedure

Procedure normally followed at a Coroner's Inquest:

- The Coroner, at the outset, will request that the Jury elect a Chairperson at the earliest opportunity, will provide an overview of procedure to be followed, and will instruct the Jury as to its function and responsibility in regards to establishing the identity of the deceased, the time and cause of death, and recommendations as to any action that should be taken to prevent similar deaths.
- The Coroner will instruct counsel who may be appearing on behalf of an interested party to funnel their written questions through Counsel to the Coroner.
- Counsel to the Coroner will then call and examine the witness who may then be questioned by the Coroner and members of the Jury.
- Counsel to the Coroner will present relevant questions from any counsel representing an interested party. In this regard Counsel to the Coroner should at all times bear in mind the objective of the inquest (as noted above) and should exercise a reasonable latitude in the range of questions asked on behalf of an interested party in order to avoid any allegation that there has been less than full disclosure of the relevant facts. If counsel has reservations about the propriety or relevance of the particular question, then the decision on whether the question should be asked will be determined by the Coroner.
- After all the witnesses called by Counsel for the Coroner are heard, the Coroner will make a general statement inviting any other person who has evidence to give to come forward. Should a person come forward, Counsel for the Coroner will interview the witnesses and if the evidence is relevant, call the witness and direct the examination as with a witness that was summoned. If Counsel to the Coroner has reservations about the relevancy of the evidence to be given, then the decision on whether the witness should be heard will be made by the Coroner.
- When all the evidence has been adduced the Coroner will address the Jury in more detail on its adjudicative and reporting responsibilities.

Crown Prosecutors should make reference to the Coroner's Manual for further information on the topic of Coroner's Inquests.

Coroners Act