

<p><b>TYPE OF DOCUMENT – TYPE DE DOCUMENT :</b> <b>Policy – Politique</b></p>	<p><b>EFFECTIVE DATE – ENTRÉE EN VIGEUR :</b> <b>September 1, 2015</b> <b>Le 1<sup>er</sup> septembre 2015</b></p>	<p><b>DOCUMENT ORDER – No. DU DOCUMENT:</b> <b>Policy – Politique 49</b></p>
<p><b>CHAPTER VI – CHAPITRE VI :</b> <b>Particular Proceedings</b> <b>Procédures particulières</b></p>	<p>Readers are referred to the list of Related Documents at the end of this Policy for additional information. Les lecteurs peuvent se référer à la liste des documents connexes notés à la fin de cette politique pour information supplémentaire.</p>	

## INQUESTS

### 1. Introduction

Investigations by the coroner, commonly called “inquests”, help ensure the protection and preservation of human life by preventing misconduct or neglect that endangers human life from going undetected. The coroner is expected to use his or her power of investigation and disclosure to prevent the continuance of hazards that might cause unnecessary death.

### 2. Statement of the Policy

#### 2.1 Notice of Death to the Coroner

Under the authority of the *Coroners Act*, all deaths other than those where the person dies of disease or sickness while under the treatment of a physician, must be brought to the attention of the coroner including

- a) the death occurred during or as a result of pregnancy;
- b) the death was sudden and unexpected; or
- c) the death occurred in circumstances that may require an investigation.

#### 2.2 The Inquest Decision

Once the coroner has notice of the death, he or she will decide whether to call an inquest. The major concern in making this decision is whether the public interest will be served by a full disclosure of the circumstances of the death, and whether the jury will be able to make useful recommendations aimed at preventing death or injury in similar circumstances.

##### 2.2.1 Authority to Call an Inquest

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, where appropriate, from the investigating Coroner, the investigative agency, and the Regional Director (Public Prosecution Services) or the Director of Specialized Prosecutions, as the case may be, before making an inquest decision.

It is essential for the coroner to be aware of any possibility of a criminal prosecution in relation to a death, as an inquest will not be considered until the criminal process is exhausted.

### **3. The Inquest**

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#### **3.1 General Objectives**

Where the Chief Coroner seeks the advice of the Regional Director or the Director of Specialized Prosecutions, as the case may be, respecting an inquest decision, the Regional Director or the Director of Specialized Prosecutions, as the case may be, shall bear in mind the general objectives concerning the purpose of an inquest:

- (a) to obtain answers to any of the following five questions regarding the deceased person:
  - (i) who was this?
  - (ii) how did this person die?
  - (iii) when did this person die?
  - (iv) where did this person die? and
  - (v) by what means did this person die?
- (b) to identify and make public a potential hazard and attempt to obtain recommendations from a coroner's jury to prevent a recurrence of that event;
- (c) to satisfy the community that there was no negligence involved, such as where a death occurs at a hospital or industrial site, or to determine whether a death was an accident or suicide; and
- (d) to demonstrate that there is general concern for a member of a certain community.

#### **3.2 Scope of an Inquest**

The scope of the coroner's inquest is limited. An inquest is not a forum to resolve civil disputes, or to conduct prosecutions. An inquest is not a trial and a coroner is not a judge. The proceedings are inquisitorial as opposed to adversarial or accusatory.

The inquest serves three primary functions:

- a) as a means for the public to ascertain facts relating to death;
- b) as a means for formally focusing community attention on and initiating community response to preventative death; and
- c) as a means for satisfying the community that the circumstances surrounding the death of one of its members will not be overlooked, concealed, or ignored.

#### **3.3 Procedure**

The coroner's inquest should normally proceed as follows:

1. The Coroner, at the outset, will request that the jury elect a Chair at the earliest opportunity, will provide an overview of the procedure to be followed, and will instruct the jury as to its function and responsibility in regard to establishing the identity of the deceased, the time and cause of death, and any recommended action that should be taken to prevent similar deaths.

2. The Coroner will instruct counsel who may be appearing on behalf of an interested party to funnel written questions through Counsel to the Coroner.
3. Counsel to the Coroner will then call and examine the witnesses who may then be questioned by the Coroner and members of the jury.
4. 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 objectives of the inquest, as set out in section 2 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 to the Coroner 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.
5. 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 any person come forward, Counsel for the Coroner will interview the witness 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.
6. When all the evidence has been adduced the Coroner will address the jury in more detail on its adjudicative and reporting responsibilities.

### **3.4 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 deceased;
2. evidence of a narrative nature leading up to the cause of death; and
3. evidence dealing with recommendations, if any, that might be forthcoming from the jury.

## **4. The Role of the Crown Prosecutor**

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### **4.1 The Coroner's Request for the Assistance of the Crown Prosecutor**

Section 22 of the *Act* authorizes the coroner to request the assistance of a Crown Prosecutor at an inquest. All such requests are made to the Director of Public Prosecutions, who will arrange to have the appropriate Regional Director or the Director of Specialized Prosecutions, as the case may be, assign a Crown Prosecutor to coordinate the service with the coroner and to act as Counsel to the Coroner at the inquest.

### **4.2 The Crown Prosecutor as "Counsel for the Coroner"**

The role of the Crown Prosecutor as "Counsel to the Coroner" at the inquest is two-fold: to take carriage of the inquest and conduct the examination of witnesses, and to provide advice to the Coroner on points of law and procedure.

When acting as Counsel for the Coroner, the Crown Prosecutor shall be familiar with the Coroners Manual.

#### 4.2.1 Selecting Witnesses

As soon as possible after the inquest decision is made, Counsel to the Coroner should consult with the coroner to ascertain the reasons why the inquest was ordered, the issues that need to be explored, and the kinds of recommendations, if any, that should be made by the jury. Counsel to the Coroner should then review the coroner's file and tentative witness list and advise the coroner accordingly as to which witnesses should be summoned.

#### 4.2.2 Procedure for the Examination of Witnesses

Ordinarily, Counsel for the Coroner leads the examination of witnesses. Following, the coroner will ask the members of the jury whether they have any questions for the witnesses. If so, the coroner will ask the witnesses any relevant questions posed by the jury. Finally, any other counsel present may submit questions to Counsel for the Coroner, who will put them to the witnesses, where appropriate. Where Counsel for the Coroner determines that the questions are improper or irrelevant, he or she shall so advise the coroner. The coroner has the final determination as to which questions to ask the witnesses.

### **5. Inquests Involving Police-related Deaths**

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Where an inquest involves a police-related death, the Director of Public Prosecutions will assign a Crown Prosecutor from another region or from Specialized Prosecutions to act as Counsel to the Coroner.

### **6. Related Documents**

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*Coroner's Manual*