

Your First Inquest

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Overview of Presentation

- Purpose of an Inquest
- Investigation prior to an Inquest
- The Inquest itself:
 - Key players
 - The Jury: recommendations and the five questions
- Recent Example



Purpose of Coroner's Inquest

- To investigate facts and circumstances surrounding certain deaths
- To hear evidence about the deaths before a jury so that the jury can:
 - answer the "five questions"
 - make recommendations designed to prevent similar deaths in the future
 - make NO finding of legal responsibility



The Five Questions: s. 31(1)

- Who the deceased was
- When the deceased came to his death
- Where the deceased came to his death
- How the deceased came to his death
- By what means the deceased came to his death



Investigation

- Conducted by police officers who are required to assist Coroner under s. 9(1) of the *Coroner's Act*
- Interviews and Will-Say Statements
- Use of Statements at Inquest



Investigation – duty to cooperate

- s. 16(6) No person shall knowingly,**
- (a) hinder, obstruct or interfere with or attempt to hinder, obstruct or interfere with; or**
 - (b) furnish with false information or refuse or neglect to furnish information to,**
a coroner in the performance of his or her duties or a person authorized by the coroner in connection with an investigation.



Investigation

The obligation to provide statements:

- One case briefly references s. 16(6)
- R. v. Omstead*: duty to cooperate and protection from self incrimination
- Coroner's office does not interpret s.16(6) as requiring person to provide a statement
- Possible inference re not providing statement



When is an Inquest called?

- There are:
- Discretionary Inquests:**
 - s. 20 – A Coroner can decide, following the investigation, if an inquest is necessary:**
 - To serve the public interest (where it is desirable for public to be fully informed of circumstances of death)
 - To answer the 5 questions
 - To make useful recommendations to avoid similar outcomes
- Mandatory Inquests**
 - S. 10 (4)- If a person dies while in police custody



The Inquest: An Overview

- ❑ **Standing** – available to persons with a “substantial and direct” interest in Inquest
- ❑ **Legal Representation** – right of person with standing
- ❑ **The Inquest Hearing**



The Inquest Itself

- ❑ **Nature of the process**
- ❑ **Key players:**
 - ❑ The Coroner
 - ❑ The Coroner’s Counsel (Crown Attorney)
 - ❑ Parties with standing
 - ❑ The jury



The Inquest Itself

Nature of the Process

- "Inquisitorial" -- not "adversarial"
- However, trappings of the adversarial process
- What an inquest is, and what it is not



The Inquest Itself

Role of the Coroner:

- A medical doctor
- "Presides" at the Inquest
- Specific responsibilities in the course of the Inquest
- Coroner's prior knowledge of the subject matter of the inquest



The Inquest Itself

- ❑ **Role of the Coroner's Counsel:**
 - ❑ A Crown Attorney but not a prosecutor
 - ❑ Calls evidence on behalf of Coroner to "tell the story"
 - ❑ Makes submission to jury once all evidence has been heard summarizing case
 - ❑ Assists the Coroner on legal or procedural issues during Inquest



The Inquest Itself

- ❑ **Role of the Parties' own Counsel:**
 - ❑ Cross examine witnesses called by Coroner's Counsel
 - ❑ May call additional evidence if necessary
 - ❑ Make submissions to Coroner on procedural issues
 - ❑ Make submissions to the jury at the conclusion of the evidence



The Inquest itself

- ❑ **Role of the Jury**
 - ❑ Hear the Evidence
 - ❑ May ask the witness questions
 - ❑ At end, must answer the Five Questions – the verdict
 - ❑ May make recommendations
 - ❑ Cannot make any finding of legal responsibility for death



The Jury's Recommendations

- ❑ “the jury may make recommendations directed to the avoidance of death in similar circumstances or respecting any other matter arising out of the inquest.”



Witnesses – what to expect

- ❑ The “summons”
- ❑ Appearing at the Inquest – the witness box and taking an oath or affirmation
- ❑ Coroner’s Counsel is first to ask questions – leads the evidence
- ❑ Other Parties with Standing may cross-examine the witness



Witnesses – what to expect

- ❑ Witness’s own counsel will cross-examine the witness after other parties
- ❑ The jury and the Coroner may ask the witness questions
- ❑ Witnesses are protected from having their testimony used against them – section 42



Protection for witnesses – s.42(1)

42. (1) A witness at an inquest shall be deemed to have objected to answer any question asked the witness upon the ground that his or her answer may tend to criminate the witness or may tend to establish his or her liability to civil proceedings at the instance of the Crown, or of any person, and no answer given by a witness at an inquest shall be used or be receivable in evidence against the witness in any trial or other proceedings against him or her thereafter taking place, other than a prosecution for perjury in giving such evidence.



Recent Example: Horan Inquest

- ❑ August 14-22, 2012
 - Paul Horan was a patient at Bluewater Methadone Clinic in Sarnia, Ontario.
 - He had become addicted to opiates after receiving treatment for back pain.
 - However, Paul had become a successful participant in Bluewater's treatment program, earning the privilege of "full carries", meaning that he could carry a week's worth of methadone without returning to the clinic each day.



Horan Inquest Contd.

- Paul spontaneously attempted suicide by drug overdose in the year before his death as a response to acute landlord/roommate issues.
- This attempt did not involve methadone, and he immediately called for help.
- Paul lost his “full carries” privileges as a result of the incident, per the clinic’s policy.
- Over the course of the next year, Paul earned back his “full carries” privileges.



Horan Inquest Contd.

- In the late hours of September 23, 2010, Paul left the home of his cousin, intending to drive to work.
- While driving on Highway 402, a police cruiser noted that Paul’s license plates were not registered, and he signaled that Paul should pull over.
- Paul did not stop immediately. The officer turned on sirens and lights.
- It appeared that Paul threw something out of his vehicle before eventually stopping.



Horan Inquest Contd.

- Paul had previously been arrested for DUI on three occasions, and had served jail time as a result.
- During the course of Paul's arrest for failure to stop for police, the officer located three empty bottles of methadone and a bottle of cleaning fluid, as well as an empty pill bottle that had been thrown from the vehicle.
- Paul denied having taken any medication or having drunk the cleaning fluid.
- On the way to the police station, Paul began experiencing seizures. The officer parked, called for backup, and put Paul in the recovery position.



Horan Inquest Contd.

- Paul continued to experience grand mal seizures in the ambulance.
- Upon arrival at Bluewater Health, emergency care efforts were attempted.
- At some point during his care, a police officer brought in the empty pill bottle (amitriptyline) and empty methadone bottles.
- Paul was pronounced dead approximately one hour after arriving at emergency.



Horan Inquest Contd.

□ Issues explored in the Inquest:

1. "Full carry" policies at methadone clinics;
2. Protocol for treating methadone patients who have a history of self-harm;
3. Emergency room protocols for dealing with poisonings by unknown substance;
4. Proper contents for the "crash cart" used in the emergency room; and
5. Whether all emergency room personnel should have current Advanced Cardiac Life Support certificates.



Outcome of Inquest

- Jury found that Paul's death was a suicide by acute amitriptyline overdose;
- Recommendations included:
 - That all "carry" contracts include a clause that the patient agrees to self-report to the clinic any admissions or attendances at a hospital for mental health issues.
 - Emergency departments have a policy requiring that when treating an overdose of an unknown or uncertain substance(s) that emergency staff contact the Poison Control Centre where practical.
 - Emergency departments should consider having intralipids available to treat patients.
 - Consider whether or not it should be a requirement that all physicians working in an emergency department have current ACLS/ACTS certification.



Thank You!

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