Medicine and the Law

Of Deaths and the Crown

Unpacking Our Coronial System (Part 2)

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This is the second article of a three-part series. In this article, the authors will focus on the parties involved in a Coroner's Inquiry. Part 1 (https://bit.ly/5405-Insight) examines the historical developments of the coronial process and provides an overview of the process, and Part 3 will focus on the various phases of a Coroner's Inquiry.

Several parties are involved in a Coroner's Inquiry (CI): the State Coroner (SC), assessors (if required), forensic pathologists (FP), State-appointed medical experts (if required), assisting officers, investigating officers (IOs), properly interested persons (PIP) and their counsel if instructed, witnesses of fact, and court counsellors.

State Coroner

The SC is a judicial officer appointed by the President on the recommendation of the Chief Justice. All judicial officers are legally trained and qualified, and they are members of the State Courts. The Coroner's Court is one of the State Courts. In Singapore, there is no requirement for the Coroner to be medically trained or qualified. The office bearer, who is charged with the general administration of the Coroner's Act (CA), must be a District Judge and thus far, those appointed have held seniority as judicial officers. Each SC typically serves for a few years before the office is rotated. Under the CA, the SC takes a proactive approach in directing the police to conduct investigations. In the function of directing investigations, the SC is assisted by the FP and the IO. At the Inquiry, the SC is aided by assisting officers of the State who will present the evidence gathered from the oral testimonies and conditioned statements of witnesses, and relevant documentary evidence. The SC has all the powers of a Magistrate's Court with regard to summoning and compelling the attendance of witnesses as well as the production of any document or thing at the CI.

Assessors

In appropriate cases, the SC may appoint and be assisted by not more than two

assessors with skill and experience in the matter to which the CI relates.[1] This is intended for cases that involve technical, scientific or highly specialised matters so that the SC is better informed in making his/her determination.[2] The value of an assessor lies in the fact that he/she is a non-partisan expert assisting the SC. The assessor may sit with the SC in the hearing of the CI and has the power to advise but not to determine any matter relating to the CI. While the power to appoint assessor(s) exists, it seems to have been hardly invoked for medical treatment-related death cases; this is likely because in practice, the SC is usually assisted by the expert opinion of the State-appointed medical expert in cases involving medical technicalities or complex medical issues, thus obviating the need for assessors to be appointed.

Forensic pathologists

The FP is a pathologist trained and qualified in forensic science and appointed by the chief executive of the Health Sciences Authority. The post-mortem examination report (or autopsy report as it is more generally known) is authored by the FP who may on occasion be called upon to testify in the Coroner's Court as a witness. Under the CA, the Coroner or the Public Prosecutor may direct an FP to investigate the cause of and circumstances connected with the death.[1] To that end, in the context of medical treatment-related death cases, the Coroner or the Public Prosecutor may direct that a copy of all medical records, healthcare records and such other documents as may be relevant to the case be furnished by the hospital, medical clinic or any other person in possession thereof to the FP. The FP is required to regularly inform the police officer investigating the death, the SC and the Public Prosecutor about the progress of the investigations and findings.

The CA confers wide-ranging investigative powers on the FP.[1] This includes calling for detailed medical reports, healthcare records or any other information, substance or thing pertaining to the medical treatment or care of the deceased in the possession of any medical or healthcare practitioner. The FP may also request the SC to direct the police to provide such assistance as the FP may require to investigate the cause of and circumstances connected with the death.

As an autopsy report is admissible and shall be prima facie evidence of the facts stated therein at any CI,[1] unless there is a challenge to the FP's opinion as expressed in the report, the FP's attendance at the CI may be dispensed with.

State-appointed medical expert

The FP is not to be confused with the State-appointed medical expert, who may be instructed in cases where there are medical technicalities or complex medical issues which require an independent medical expert opinion to assist the SC in making findings. The State-appointed medical expert is usually recommended by the Academy of Medicine, Singapore upon request by the assisting officer or IO as directed by the SC. In appropriate cases, the SC may also allow medical practitioners who treated or cared for the patient in circumstances leading to the patient's death to produce an expert opinion of their own, should there be disagreement with the expert opinion of the State-appointed medical expert. The experts from both sides will then testify in the Coroner's Court to provide their respective opinions, but all with the common objective of assisting the SC to make the appropriate findings.

Assisting officers

In terms of eliciting oral testimony from the pertinent witnesses and presenting documentary evidence such as conditioned statements of witnesses and medical reports or producing physical exhibits during the Inquiry, the SC is assisted by Deputy Public Prosecutors (who are also concurrently State Counsel) and Assistant Public Prosecutors from the Attorney-General's Chambers in the more complex cases, and a police officer of the rank of Senior Station Inspector or above in more straightforward ones.[3] These personnel are known as the assisting officers. Their function is to present all relevant evidence gathered to assist the SC in making his/her determination, and not for the purposes of or with a view to prosecution, as their titles may suggest. They represent the interests of the State in ensuring that coronial cases are properly investigated, and not the interests of any party involved in the proceedings.

Specifically, the assisting officer's role in a Coroner's case is to present the results of the investigation into the cause of and circumstances connected with the death; tender any evidence relevant to the Inquiry or Pre-Inquiry Review, including any investigation report, autopsy report, special examination report and conditioned statement; question any witness at the Inquiry or prepare any conditioned statement of such witness; make an opening address or a closing address or both at the Inquiry; and assist the SC with such other matters necessary for the Inquiry or Pre-Inquiry Review as the SC may direct.[3]

Investigating officers

In all these aspects, the assisting officers work closely with the IO of the case, who is invariably a senior police officer. After investigations commence upon receiving the report of death, the IO shall, as soon as reasonably practicable, inform the SC of the death and any particulars concerning the cause of death which have come to his knowledge. The IO shall from time to time furnish the SC with such further particulars concerning the death as may subsequently come to his/her knowledge, and comply with such directions as the SC may give concerning

the investigation.[1] In investigating into any death, the IO may exercise any or all of the powers conferred on him/her by the Criminal Procedure Code or any other written law in relation to investigations into an arrestable offence.[1]

Properly interested persons

PIP include (i) the spouse or next-of-kin of the deceased, (ii) the personal representative of the deceased, or (iii) any person who, in the opinion of the Coroner, should be regarded as having any particular interest in the Inquiry. Examples of persons "regarded as having any particular interest in the Inquiry" for medical cases would include hospital representatives or medical practitioners involved in the treatment of the deceased. PIPs may attend and examine witnesses at the CI either in person and/or be represented by counsel.

In relation to medical practitioners, their Counsel's role includes advising them of their rights and obligations, as well as to assist the Coroner during the CI in having relevant and material information put forward. During the Inquiry, Counsel may also ask questions of witnesses with the permission of the Coroner.

Witnesses of fact

Witnesses of fact may be broadly divided into professional or non-professional witnesses. The former comprises members of the medical team who cared for the deceased before his/her demise and whose evidence the State Coroner considers relevant for the purposes of the Inquiry. Hence, if a patient passed shortly following a medical procedure, and there are questions of whether the death was caused or contributed to by the attending medical team's care, the medical practitioners involved in such care may be called upon to attend the Inquiry as professional witnesses of fact. If the death is suspected to be linked to medical equipment supplied by a vendor, the vendor's representative may be called upon to testify as a non-professional witness of fact. Medical practitioners who attend the Inquiry as a professional witness of fact are not considered an expert witness, even though the Coroner may ask them for their opinion as to the probable causes of death. The distinction is that an expert witness is a medical professional who is independent, neutral and impartial, and who can comment on the medical care with detached objectivity. An example would be the State-appointed medical expert. Medical practitioners who managed the patient in a professional capacity before the latter's demise obviously have an interest in the case and cannot be regarded as an expert witness. It is only appropriate that they be called professional witnesses of fact.

All witnesses who attend a CI may seek reimbursement of expenses incurred by them in attending the Inquiry, and also compensation for their trouble and loss of time.[1] Such reimbursement and compensation, which are subject to the Criminal Procedure Code (Witnesses' Allowances) Regulations 2010 and are paid out from the Consolidated Fund, will have to be approved by the SC at his/her discretion. Usually, the claim for expenses and compensation is submitted to the IO who will follow up appropriately.

Court counsellors

Court counsellors are also usually seen attending CIs to provide counselling and support to grieving next-of-kin if necessary. They are members of the State Courts Centre for Specialist Services which comprise experienced psychologists, counsellors and social workers, and provide counselling and psychological services to court users in need.[4]

Acknowledgements

The authors wish to acknowledge Ms Ting Chun Yen for her editorial assistance and contributions to this article. Chun Yen is an associate with the Disputes & Specialist Practice of Donaldson & Burkinshaw LLP. She advises and represents doctors in disciplinary proceedings, medical negligence claims and coroner's inquiries. ◆

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