

HOW TO... PREPARE FOR AN INQUEST

How can I influence the decision to hold an inquest?

Submission to coroner addressing factors that a coroner will take into account:

- Is identity known?
- Are date and place of death known?
- Is the physical cause of death known?
- Are the circumstances known? (How did X die?)
- Are they suspicious or troubling?
- Are there any issues of public health or safety involved?
- Has the case been investigated previously? By whom? With what result?
- Have issues of public interest been addressed? By whom? How?
- An inquest is a fact-finding exercise not a criminal trial

How do I prepare for an inquest ?

- Obtaining a brief (Court registry; Crown Solicitor's Office; police advocate)
- Key cases and the main texts
- Key provisions of the Act (findings, recomms, referral, privilege, non-publication),
- Speaking with Counsel Assisting
- Directions and call overs,
- Practice note,
- Standard prep (dramatis personae, chronology, issues lists, xx)
- NCIS

How do I prepare as Counsel Assisting?

- Early engagement with brief to guide investigation,
- Identify likely issues, persons of interest, interested parties, witnesses
- Identify gaps in evidence
- Confer with coroner
- Opening address
- Develop draft recommendations well in advance to allow adequate consultation

How do I effectively influence an inquest if I appear for a family

- Communicating with counsel assisting
- Witness lists – you can make suggestions or requests
- Issues – you can raise issues for coroner/ Counsel Assisting to consider
- Recommendations – can be suggested to coroners

How do I effectively influence an inquest if I appear for a POI

- Self-incrimination and s 61 certificates (like s 128 certificates)
- Submissions on referrals to DPP
- Questioning
- Non-publication orders

Guiding principles

- Procedural fairness,
- Relevance
- Statutory duties

Quirks of the jurisdiction / traps for young players

- You can influence content of investigation, witness list, issues and recommendations (but only if you start early and engage constructively)
- You are shut out when counsel assisting speaks to coroner
- No rules of evidence and objections of limited utility
- You rarely tender documents or obtain evidence
- You have limited entitlements (so threats, deadlines etc very ill advised)
- Ambush rarely effective (and often in breach of a practice note)
- Inquests run by Crown are very different to those run by the Sergeants
- Each inquest has its own dynamic of Coroner, counsel assisting, issues and parties at bar table
- Time restrictions – stopwatch orders on xx are common
- Multiple experts are usually hot-tubbed
- Sensitivity to feelings of grieving families critical

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