



D51 The Importance of Consistent and Reasoned Death Classification in the Proper Execution of a Death Investigator's Public Duty

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After attending this presentation, attendees will learn new strategies for death classification consideration.

This presentation will impact the forensic community and/or humanity highlighting to others in the public service of death investigation, for both forensic and medico-legal purposes, that cautious, informed and reasoned conclusions are essential to maintaining public confidence as we execute our authority as participants in administrative justice and public safety.

This presentation will demonstrate the forensic and medico-legal importance of consistent and rational classification of death by coroner and medical examiner systems. The process utilized by the Office of the Chief Coroner in Ontario, Canada to achieve this outcome will be described.

As persons provided with significant powers, often usurping the wishes of family, to investigate and determine cause and manner of death, coroners and medical examiners exercise an important public duty. The process utilized by the Office of the Chief Coroner to develop by what means guidelines that are transparent, reasoned and medically

and legally valid will be presented. The guidelines are based on the collective experience of senior coroners and consideration of definitions in other jurisdictions.

Death investigation in Ontario, Canada (perhaps the largest medico-legal jurisdiction in North America) is conducted by licensed physicians. Approximately 340 physicians (full time physician supervisors and managers and fee for service physician investigators) apply the principles to ensure consistent determinations in the 30,000 death investigations each year. These physicians are appointed coroners through an "Order in Council" of the provincial government following an application, interview and background screening. References are contacted to ensure good medical judgment and keen forensic and medico-legal interest.

The significance of "by what means" decisions by coroners in forensic and medico-legal death investigation will be discussed. The impact of death classification on legal matters for the deceased, the family, business associates and colleagues, the justice system and the public will be demonstrated. Utilizing the legal test of "balance of probability" in a medically based death investigation organization coroners in Ontario make these decisions cognizant of the legal, religious and societal (both private and public) impact of findings such as accident, suicide and homicide.

The definition of suicide in Ontario has been determined by a judicial decision and is stated to be death resulting from "the intentional act of a party knowing the probable consequences of what he is about" [*Beckon v. Young* (1992) 9 O.R. (3d) 256 (O.C.A)]. The court also directed that the application of this definition also requires a "high degree of probability".

Intense scrutiny of the circumstances of deaths as a result of police action, which are often the subject of a mandatory public inquiry in the form of an inquest, has initiated close examination of the "homicide" definition in a non-culpable context. Only five classifications are open to an inquest jury: natural, accident, suicide, homicide and undetermined. No other "creative" determinations or descriptions can be returned. This principle must be applied against a strong policing initiative to avoid the "homicide" term.

Ontario has an active inquest system in which a jury of five persons is tasked with the determination of cause and manner of death following sworn evidence about the circumstances leading to the death and the active participation of parties granted "standing" at the inquest. The definitions of natural, accidental, suicide, homicide and undetermined provided to the jury are identical to those utilized by investigating coroners. These definitions must be applied to the circumstances of the case, relying on clear and cogent evidence. No finding or implication of blame or legal responsibility can be returned by the jury in their verdict or their recommendations.

Sample investigation and inquest cases will be presented to demonstrate the application of the guidelines and discussion welcomed.

Death, Medico-Legal, Forensic Impact