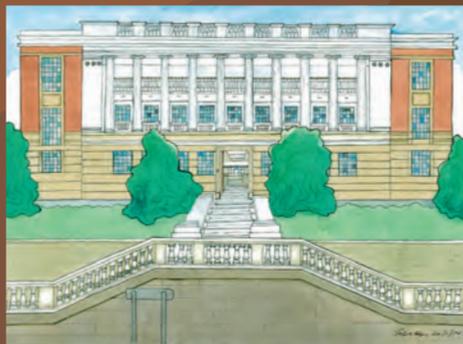


死因裁判法庭

The Coroner's Court

法庭服務簡介

Guide to Court Services



死因裁判法庭

死因裁判法庭負責為若干類死亡個案展開研訊，確定死因及肇事情況。本冊子將扼要說明死因裁判官在處理有關死亡個案時，所具有的廣泛權責。

死因裁判官的職權範圍

死因裁判官為司法人員，有權：

- 發出埋葬命令
- 發出火葬命令
- 批准免將屍體剖驗
- 發出屍體剖驗命令
- 發出檢掘遺骸命令
- 發出命令將屍體運離香港
- 命令警方調查死亡個案
- 命令進行研訊
- 批准切除及使用死者部份器官
- 簽發死亡事實證明書

哪些死亡個案須向死因裁判官報告？

依照死因裁判官條例，共有20類死亡個案須向死因裁判官報告（見附錄I）。當獲悉死亡個案時，任何有責任呈報死亡個案的人士（見附錄II），均應盡速向死因裁判官報告。

如何處理須呈報的死亡個案？

並非所有須呈報的死亡個案都須要進行研訊，只有某些類別除外。當有死亡個案須向死因裁判官報告，屍體將被送往醫院或公眾殮房，並由病理學家展開以下程序：

- 進行屍體外部檢驗
- 向死因裁判官提交檢驗結果及死因
- 若死因已確定，可建議豁免屍體剖驗，並要求發出埋葬或火葬命令
- 若未能確定死因，則要求發出屍體剖驗命令
- 向死因裁判官簡述死亡情況，例如臨床病徵、背景等

死因裁判官仔細考慮病理學家提出的報告後，按個別情況發出以下命令：

- 屍體剖驗命令
- 批准免將屍體剖驗的命令
- 埋葬命令
- 火葬命令

倘若死因裁判官不能斷定死因或有其他原因，則會：

- 命令剖驗屍體
- 研究病理學家提交的屍體剖驗報告
- 考慮是否須要進行調查

倘若病理學家建議剖驗屍體，而死者家屬申請豁免，並想親身向死因裁判官作出陳述，死因裁判官將於內庭會見家屬，以便決定是否發出屍體剖驗命令或批准豁免屍體剖驗。在醫學上的死因不詳的情況下，豁免屍體剖驗的申請將不獲批准。

倘若死因裁判官決定調查一宗須呈報的死亡個案，則由警方進行調查，然後向死因裁判官提交死亡調查報告。死因裁判官研究報告後，便決定應否開庭研訊，或徵求專家的意見。

死因裁判官亦可發出手令，授權有關人員進入任何處所和地方，搜查與死亡個案有關的證據。

倘若死因裁判官決定無須進行研訊，有適當利害關係人士可致函死因裁判官，索取死亡調查報告的副本。

研訊

每當有人在下列情況中死亡，死因裁判官可會同五人陪審團或在沒有陪審團參與的情況下進行研訊：

- 突然死亡
- 因意外或暴力而死亡

- 在可疑情況下死亡
- 屍體在香港被發現或被運入香港

如發生下列情況，必須進行研訊：

- 有人在受官方看管時死亡，例如在獄中或羈留中心死亡（研訊必須有陪審團參與）
- 因應律政司司長的要求

死因裁判官可進行研訊前檢討，以決定如何以公正和迅速的方式完成研訊。研訊前檢討不會在法庭公開處理；但研訊則須在公開法庭進行。

死因裁判官會向證人發出傳票，傳召他們出庭作證及呈交文件。有適當利害關係人士可由律師代表出庭。有適當利害關係人士可付費索取證人陳述書，醫學或技術報告。

當值律師服務計劃會向在研訊中可能作出可導致自己入罪的證供而有被刑事檢控之虞的證人提供法律代表。

處理較為複雜的個案時，死因裁判官可要求律政司司長委派政府律師協助進行研訊。

研訊如何展開？

研訊時，死因裁判官或陪審團須確定：

- 死者的身份
- 死者是如何，何時和在何處死亡

- 根據《生死登記條例》須就該宗死亡個案登記的詳情
- 對該宗死亡個案的結論

研訊程序以下列方式進行：

- 死因裁判官展開研訊
- 傳召證人出庭作證，由死因研訊主任或政府律師、陪審團、死者家屬、其他有適當利害關係人士及死因裁判官分別訊問
- 死因裁判官總結案情
- 死因裁判官或陪審團宣讀裁斷（有關裁斷的例子可參考附錄III）

根據法例，死因裁判官或陪審團作出裁斷時，不得作令人覺得是對民事法律責任問題的決定。所有民事法律責任及賠償的申索，應向處理民事訴訟的法庭提出，並在該法庭聆訊。

為防止類似死亡事件發生，死因裁判官或陪審團可作出建議。以工業意外為例，裁判官可提醒主事者採取適當行動，堵塞工作流程的漏洞，或改善操作方法，避免再發生如研訊證供中提及的致命意外。

研訊中死因裁判官如覺得某人可能已犯謀殺、誤殺、殺嬰或危險駕駛引致他人死亡的刑事罪行，須將研訊押後，並將此事宜轉介律政司司長處理。在刑事訴訟程序終結前，有關的研訊不得重新展開。

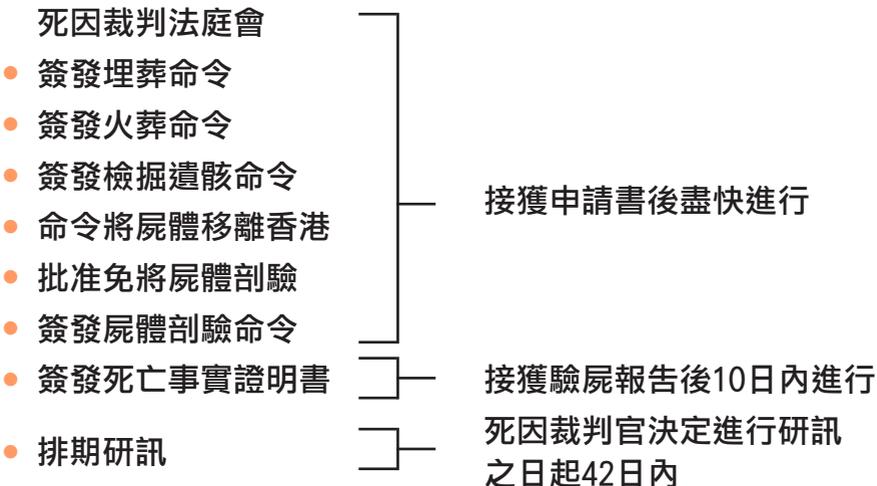
可否要求死因裁判官進行研訊？

有適當利害關係人士或律政司司長可向高等法院原訟法庭申請進行死因研訊。倘若研訊已完結，亦可要求就同一個案重新研訊。曾擔任首次研訊的陪審團，亦須再度出任重開研訊的陪審員。

死亡事實證明書

死因裁判官可簽發死亡事實證明書，作為死亡事實的臨時證明文件。死亡事實證明書可用於以下情況：如要把屍體運往另一國家安葬，特別是該國要求提交官方文件，證明死者並非死於傳染性疾病。

服務承諾



如何聯絡死因裁判法庭？

地址：九龍深水埗通州街501號西九龍法院大樓A座9樓

電話：3916 6204

傳真：2568 1735

辦公時間

法庭登記處及會計部

星期一至星期五 上午八時四十五分至下午一時

下午二時至下午五時三十分

(星期六、星期日及公眾假日休息)

如果天氣惡劣，死因裁判法庭有甚麼安排？

請參閱司法機構網頁：颱風及暴雨警告的安排

(http://www.judiciary.hk/tc/crt_services/business_hours_typhoon.htm#typhoon_warning)或留意電台／電視的相關報導。

20類須予報告的死亡個案

- 醫學上未能確定原因的死亡
- 死者死亡前14日內並無得到診治
(死亡前已被診斷為有末期疾病的患者除外)
- 意外或受傷導致的死亡
- 罪行或懷疑罪行導致的死亡
- 施用麻醉藥導致死亡，或在接受全身麻醉期間死亡，或死亡在施用全身麻醉藥後24小時內發生
- 手術導致死亡，或死亡在大型手術後48小時內發生
- 職業病導致死亡，或該人的死亡與其現時/以往的職業有直接/間接的關聯
- 死於胎中的個案
- 孕婦在產嬰/墮胎/流產後30日內死亡
- 主因不明的敗血症導致死亡
- 自殺身亡
- 受官方看管時死亡
- 在具有逮捕或拘留的法定權力的人履行職責的過程中死亡
- 在政府部門的處所內死亡，而該部門的公職人員有法定的逮捕和拘留權
- 法例指定的某類精神病人在醫院或精神病院內死亡
- 在私營照料院所內的死亡(除死者之前已被診斷為患有末期疾病、死者死亡前14日內已得到診治及死者死於自然原因外)
- 殺人罪行導致的死亡
- 施用藥物或毒藥導致的死亡
- 受虐待、飢餓或疏忽導致的死亡
- 在香港境外的死亡，而屍體被運入香港

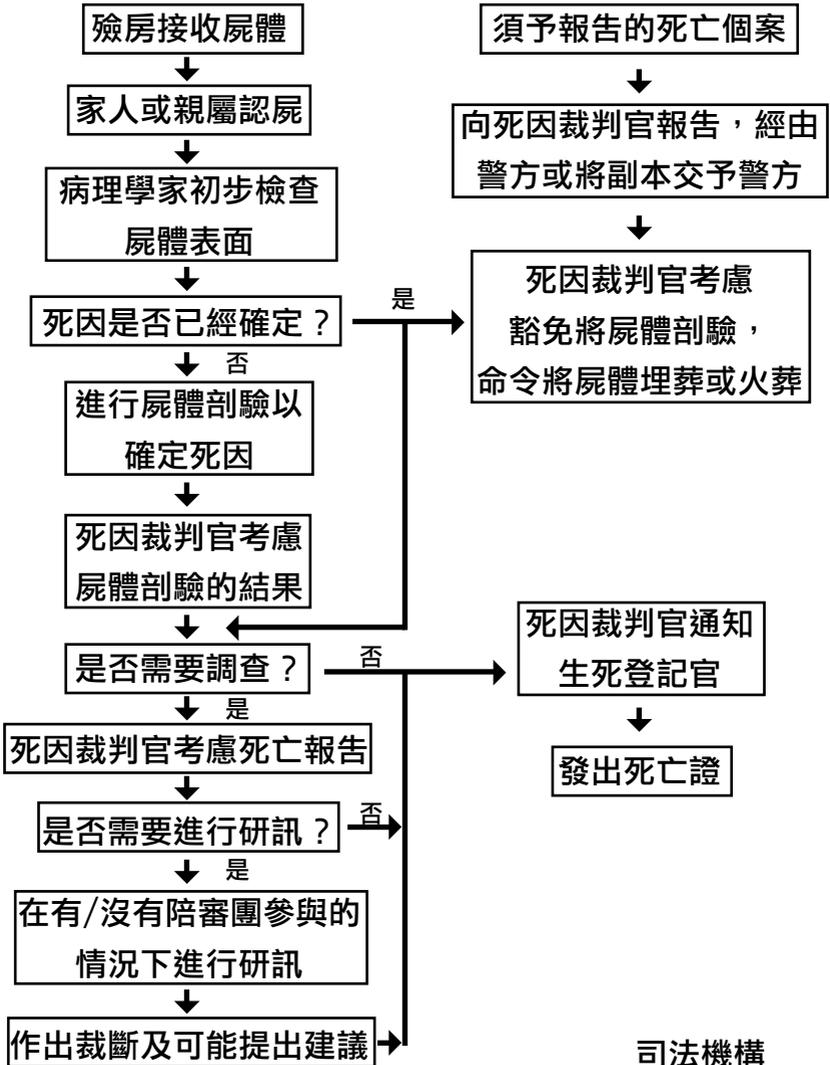
有責任報告死亡個案的人士

有責任作報告的人士	接受報告的人士
簽署死因證明書的註冊醫生或在死者死前最後患病期間診治死者的註冊醫生	死因裁判官(副本同時呈交警務處處長)
醫院主管或獲他以書面授權的人	死因裁判官(副本同時呈交警務處處長)
任何執行官方看管職責的人 (警察除外)	死因裁判官 (經警務處處長)
負責執行官方看管職責的警務人員	死因裁判官
政府部門(警務處除外)處所的主管	死因裁判官 (經警務處處長)
警務處處所的主管	死因裁判官
就任何須予報告的死亡個案接到法定通知的政府部門的首長	死因裁判官
任何警務人員	死因裁判官
生死登記官	死因裁判官
就死者遺體根據 《醫學(治療、教育及研究)條例》 尋求死因裁判官同意的任何註冊醫生	死因裁判官

死因裁判官或陪審團可作出的裁斷例子

裁斷	例子
死於自然原因	疾病，例如癌症或心臟病發
職業病	因職業染病，例如石棉沉著病
倚賴藥物/非倚賴性的濫用藥物	過量使用毒品或其他藥物
出生時缺乏照顧	嬰兒出生時因未得到足夠照顧而死亡
自殺	跳樓
企圖墮胎/ 自我引發的墮胎	墮胎或企圖墮胎導致死亡
意外	意料之外或偶發的事件導致死亡， 例如交通意外或工作時失足
死於不幸	合法的行為導致意料之外的死亡
合法被殺	因警務人員使用槍械自衛或防止他人 受傷害而導致死亡
非法被殺	死者死於謀殺或誤殺
死於胎中	胎兒於出生前死亡
存疑裁決	證據不足，除「存疑裁決」外無法作 出任何其他裁斷

工作流程表



司法機構
二〇二四年七月
(第九版)

THE CORONER'S COURT

The task of the Coroner's Court is to inquire into the causes and circumstances of certain deaths. As this booklet outlines, the Coroner has extensive powers related to the conduct of affairs relating to such deaths.

What are the Coroner's powers?

The Coroner is a judicial officer who has the power to:

- grant burial order
- grant cremation order
- grant waiver of autopsy
- grant autopsy order
- grant exhumation order
- grant order to remove a dead body outside Hong Kong
- order police investigation into the death
- order inquest to be held
- approve removal and use of body parts of the dead body
- issue certificate of fact of death

What types of deaths should be reported to the Coroner?

The Coroners Ordinance sets out 20 categories of deaths (see Appendix I) which should be reported to the Coroner. Anyone responsible for reporting a death to the Coroner (see Appendix II) should do so as soon as they reasonably can after they know of the death.

What happens when a reportable death occurs?

The fact that a death is reportable to the Coroner does not necessarily mean that an inquest has to be held, except for certain categories of death. When a reportable death occurs, the body is sent to either a hospital or a public mortuary, where the pathologist:

- conducts an external examination of the body
- reports the findings of this examination and the cause of death, if ascertained, to the Coroner
- recommends waiver of autopsy, and seeks a burial or cremation order if the cause of death can be ascertained
- seeks an autopsy order if the cause of death cannot be ascertained
- submits a brief description of circumstances connected with the death, for example, the clinical background

The Coroner considers the pathologist's report and, depending on the case, makes the following orders:

- autopsy order
- waiver of autopsy
- burial order
- cremation order

If the Coroner is uncertain of the cause of death or for other reasons, he will:

- order an autopsy
- study the autopsy report from the pathologist
- consider whether an investigation is needed

If the pathologist recommends an autopsy, but the deceased's family applies for a waiver and wishes to address the Coroner in person, the Coroner sees the family in chambers, and then decides whether to order an autopsy or a waiver. A waiver of autopsy will not be granted if the medical cause of death is not known.

If the Coroner decides that a reportable death should be investigated, the police carry out the investigation and submit a death investigation report to the Coroner. The Coroner considers this report and decides whether an inquest should be held, calling on expert opinion where necessary.

The Coroner may issue a warrant of entry and search in respect of any premises and place to search for things which may be relevant to a death.

If the Coroner decides not to hold an inquest, properly interested persons may request for a copy of the death investigation report.

Inquests

The Coroner may hold an inquest with a jury of five or without a jury when a person dies

- suddenly
- by accident or violence
- under suspicious circumstances
- when the dead body of a person is found in or brought into Hong Kong

An inquest must be held:

- when a person dies whilst in official custody, for example, in a prison or a police cell (this inquest must be held with a jury)
- upon the request of the Secretary for Justice

The Coroner may conduct a pre-inquest review to decide how the inquest may be disposed of in a just and expeditious manner. Pre-inquest reviews do not take place in open court, but inquests are held in open court.

Summons will be issued to witnesses to attend the inquest to give evidence and to produce documents. Legal representation for a properly interested person is allowed. Properly interested persons may upon payment of fees obtain copies of witness statements, medical or other technical reports.

The Duty Lawyer Scheme also provides legal representation to persons who are at risk of criminal prosecution as a result of giving incriminating evidence in the inquest.

In more complicated cases, the Coroner may request the Secretary for Justice to assign Government Counsel to assist him to hold the inquest.

What happens at the inquest?

At the inquest, the Coroner and the jury should ascertain:

- the identity of the deceased
- how, when and where the deceased died
- the particulars required by the Births and Deaths Registration Ordinance to be registered concerning the death

- the conclusion as to the death

The proceedings of the inquest are as follows:

- the Coroner opens the inquest
- witnesses are called and examined by the Coroner's Officer or Government Counsel, the jury, family members of the deceased, properly interested persons, and the Coroner
- the Coroner sums up the case
- the Coroner or the jury delivers the findings (typical examples of findings are set out in Appendix III)

The Coroner and jury are not allowed to frame a finding in such a way as to appear to determine any question of civil liability. Claims for civil liabilities and damages should be lodged and heard in the civil law courts.

Recommendations may be made if they are designed to prevent the recurrence of similar fatalities, for instance deaths in industrial accidents, to prevent other hazards to life disclosed by evidence at the inquest, or to bring deficiencies in a system or method of work to the attention of a person who may have power to take appropriate action.

The Coroner must adjourn an inquest and refer the matter to the Secretary for Justice where it appears that a criminal offence of murder, manslaughter, infanticide or death by dangerous driving may have been committed by any person. An inquest cannot be resumed until the criminal proceedings are finished.

Can anyone ask the Coroner to hold an inquest?

Properly interested persons or the Secretary for Justice may apply to the Court of First Instance of the High Court for an inquest to be held into a death including, where an inquest has already been held, a new inquest into that death. The jury who served in the first inquest will also serve as the jury for the re-opened inquest.

Certificate of the fact of death

The Coroner may also issue a certificate of the fact of death. This is in effect an interim document certifying the fact of death. The certificate of the fact of death can be used, for example, to assist in the transport of a dead body to another country for burial, in particular where the relevant authorities of that country require official documentation that the deceased did not die from an infectious disease.

Performance Pledge

The Coroner's Court will

- grant a burial order
 - grant a cremation order
 - grant an exhumation order
 - grant an order to remove a dead body outside Hong Kong
 - grant a waiver of autopsy
 - grant an autopsy order
- as soon as practicable upon the receipt of an application
- issue a certificate of fact of death
- 10 days from the receipt of the post-mortem report
- list an inquest
- 42 days from the date of the Coroner's decision to hold an inquest

How to contact the Coroner's Court?

Address: 9/F, Tower A, West Kowloon Law Courts Building,
501 Tung Chau Street, Sham Shui Po, Kowloon
Telephone: 3916 6204
Facsimile: 2568 1735

Business Hours

Registry and Accounts Office

Monday to Friday 8:45 a.m. to 1:00 p.m.
2:00 p.m. to 5:30 p.m.

(Closed on Saturdays, Sundays and Public Holidays)

What are the arrangements of the Coroner's Court in case of bad weather?

Please refer to Typhoon and Rainstorm Warning Arrangements in the Judiciary website (http://www.judiciary.hk/en/crt_services/business_hours_typhoon.htm) or radio/ television announcements of the same.

The 20 Categories of Reportable Deaths

Appendix I

- Death the medical cause of which is uncertain
- Medically unattended within 14 days prior to the death, except where the person was diagnosed as having a terminal illness before his/her death
- Death caused by an accident or injury
- Death caused by a crime or suspected crime
- Death caused by an anaesthetic or the deceased was under the influence of a general anaesthetic or which occurred within 24 hours after the administering of a general anaesthetic
- Death caused by an operation or which occurred within 48 hours after a major operation
- Death caused by an occupational disease or which is directly/indirectly connected with the person's present/previous occupation
- Still birth
- Death of a woman which occurred within 30 days after the birth of her child/an abortion/a miscarriage
- Death caused by septicaemia with unknown primary cause
- Suicide
- Death in official custody
- Death occurred during discharge of duty of an officer having statutory powers of arrest or detention
- Death in the premises of a Government department, any public officer of which has statutory powers of arrest or detention
- Death of certain mental patients (as defined by law) in a hospital or in a mental hospital
- Death in private care premises, except where the person was diagnosed with a terminal illness, was medically attended to within 14 days before death, and died of natural causes
- Death caused by homicide
- Death caused by administering of a drug or a poison
- Death caused by ill-treatment, starvation or neglect
- Death which occurred outside Hong Kong where the body of the person is brought into Hong Kong

Appendix II

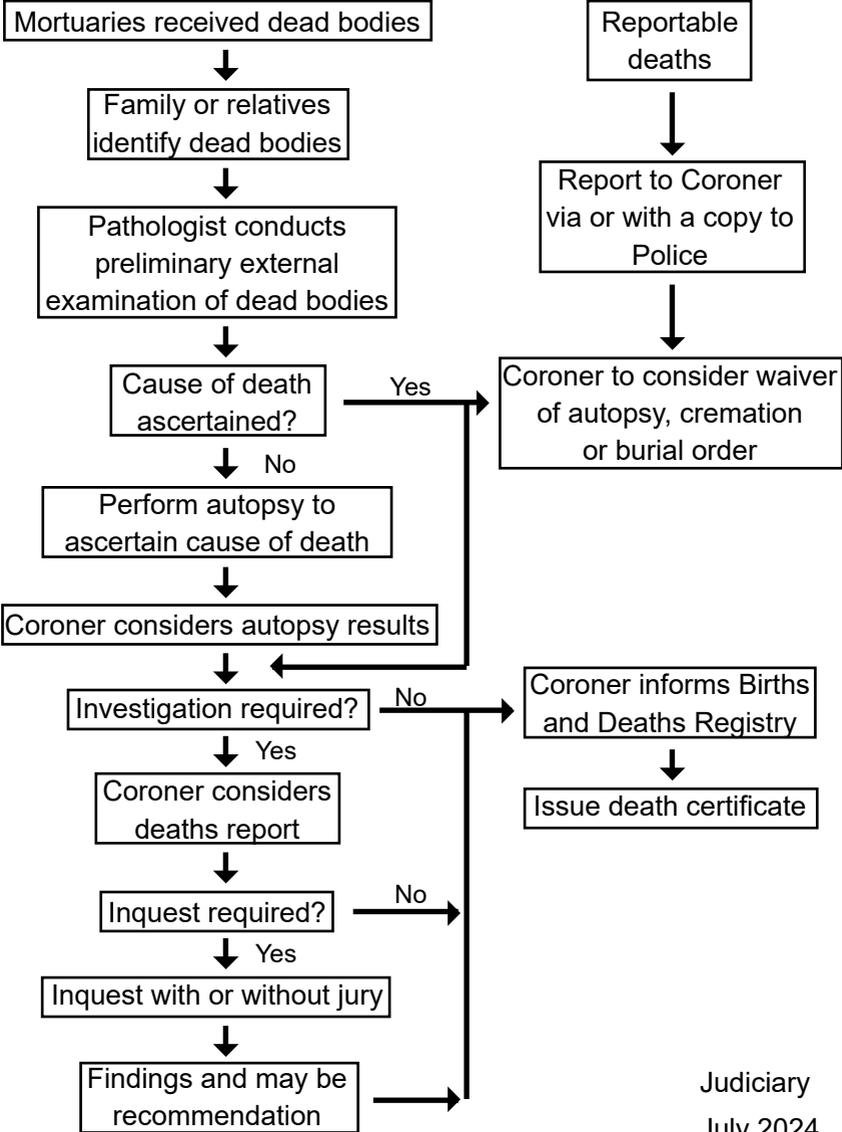
Persons Responsible for Reporting Deaths

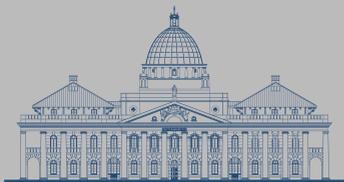
Person Responsible for Reporting Death	Report made to
The registered medical practitioner who signed the certificate of the cause of death or attended the deceased during his/her last illness	Coroner with a copy to the Commissioner of Police at the same time
The person in charge of a hospital, or another person authorized in writing by the person so in charge	Coroner with a copy to the Commissioner of Police at the same time
Any person (except a police officer) exercising the duty of official custody	Coroner via the Commissioner of Police
Any police officer exercising the duty of official custody	Coroner
Any person in charge of a premises of a Government Department (other than the police force)	Coroner via the Commissioner of Police
Any person in charge of a premises of the police force	Coroner
The head of any department of the Government which receives a statutory notice in respect of any reportable death	Coroner
Any police officer	Coroner
The Registrar of Births and Deaths	Coroner
Any registered medical practitioner seeking the consent of a coroner under Medical (Therapy, Education and Research) Ordinance in relation to the body of the deceased	Coroner

Examples of Findings which may be made by the Coroner or the Jury

Finding	Example
Natural causes	An illness such as cancer or a heart attack
Occupational disease	A disease arising from an occupation, e.g. asbestosis
Dependence on drugs / non-dependent abuse of drugs	An overdose of narcotic drugs or other medication
Want of attention at birth	Death as a result of insufficient care being given to a child at birth
Suicide	Jumping from high rise building
Attempted / self-induced abortion	Death resulting from an abortion or an attempt to abort a child
Accident	Death resulting from an unexpected or untoward event, e.g. a traffic accident or a fall at work
Misadventure	Where an act that is lawful but that has an unexpected consequence has caused the death
Lawful killing	Death as a result of police use of firearms to prevent injury to a person or self defence
Unlawful killing	Murder or manslaughter
Stillbirth	The death of a foetus prior to birth
Open verdict	This finding is made if the evidence is not sufficient for any other finding to be made

Workflow Chart





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JUDICIARY

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