

Request for an Ombudsperson investigation into the independence of the Coroners Service of B.C.

Facts

On Monday, December 13, 2010, B.C. Chief Coroner Diane Rethon quit her appointment as Chief Coroner of the province. She had been appointed to the position on April 1, 2010 and was the first Chief Coroner to hold the position who was not a former police officer in more than a decade. One of the primary responsibilities of the Chief Coroner in British Columbia is investigation of police-involved deaths.

News reports said that Dr. Rethon declined to comment on specific concerns that led to her resignation, and quoted Dr. Rethon as saying, in reference to the Provincial government: "I have a different vision for the coroner's office. It's at variance with others, I guess;" and "We just really couldn't see eye-to-eye."¹

Following Dr. Rethon's resignation, a media article reported allegations of direct political interference in the independent coroner's office and attributed the allegations to former chief coroners of British Columbia and B.C.'s Representative for Children and Youth, Mary Ellen Turpel-Lafond:

Former chief coroners and B.C.'s independent children's watchdog expressed concern Thursday about how government has encroached on the office's independence, including forcing it to submit its reports -- which contain recommendations to prevent future deaths that can be critical of government policies -- to the government public affairs bureau for review.²

In particular, former Chief Coroner Terry Smith was quoted in the Times Colonist saying: "I think in order to have an effective coroners service, it needs to have a much higher level of independence than what it currently has." [Emphasis added] He was also quoted as saying:

There are times when a chief coroner, and the coroners service generally, needs to speak out as an independent entity and to address the facts as they are seen from an independent perspective, and there shouldn't be the pressure of having to temper comments that may offend political sensibilities. [Emphasis added]

The allegations were repeated in a media story two days later:

¹ 'Different vision' prompts resignation of chief coroner, Vancouver Sun online, 16 December 2010, available at

² Coroner's exit sparks independence calls, Times Colonist online, 17 December 2010, available at <http://www.timescolonist.com/news/Coroner+exit+sparks+independence+calls/3992156/story.html>

But three former chief coroners have raised concerns to the Times Colonist about government interference with the office – one of the most visible examples being the filtering of coroners’ reports through the public relations bureau.³

The Coroners Act specifically prohibits the interference by government in the duties of the Coroner. At section 71, the Act reads:

A person must not knowingly hinder, obstruct or interfere with or attempt to hinder, obstruct or interfere with, a coroner . . . in the performance of his or her duties or a person acting under the direction of any of these.⁴

The definitions section of the Act defines coroner as including “the chief coroner and deputy chief coroner.”⁵

Jurisdiction of the Ombudsperson’s office over the parties

The office of the Ombudsperson has jurisdiction over all parties listed in this complaint pursuant to the Schedule of the Ombudsperson’s Act. In particular, the Ombudsperson’s office has jurisdiction over the Coroners Service of B.C., through section 2 of the Schedule of Authorities, as the Coroner’s Service is an authority which is appointed by a minister and responsible to government.

Similarly, the office of the Ombudsperson has jurisdiction over the relevant provincial government departments who may have interfered with Dr. Rethon and her predecessor Chief Coroners, including but not limited to, Police Services Division, the Solicitor General’s ministry, the Attorney General’s ministry, and, in particular, the provincial government’s public affairs bureau.

Jurisdiction of the Ombudsperson’s office over the subject matter

The Ombudsperson’s office has jurisdiction by section 10 of the Ombudsperson Act to investigate an “act done or omitted” that “aggrieves or may aggrieve a person.”⁶

It is our respectful submission that any act that interferes with the independence of the Chief Coroner or any Coroner in B.C. aggrieves or may aggrieve all citizens of B.C., as such interference, including requiring findings to be submitted to public relations review, is illegal. Further, such interference interferes with the function of the Coroner’s office, whose mandate is to investigate all unnatural, sudden and unexpected, unexplained or unattended deaths and to make recommendations to improve public safety and prevent similar deaths, which mandate is of benefit to all residents of B.C.

For the purposes of this complaint, such conduct aggrieves the B.C. Civil Liberties Association and the signatory of this complaint, the Association’s representative and a citizen of British Columbia.

³ B.C. rejects independent office for coroners, Times Colonist online, 18 December 2010, available at <http://www.timescolonist.com/news/rejects+independent+office+coroners/3998467/story.html> .

⁴ *Coroners Act*, [SBC 2007] c. 15, s.71(a)

⁵ *Ibid.* at s.1 “coroner”.

⁶ *Ombudsperson Act*, [RSBC 1996] Chapter 340, s.10(b).

Request for investigation

The B.C. Civil Liberties Association and the signatory to this letter respectfully request that the Office of the Ombudsperson immediately commence an investigation into the following matters, and examine them over the period from January 1, 2005 to the present:

1. Whether any individuals, organizations, elected or appointed government officials, provincial government employees, or government departments (“third parties”) have interfered directly or indirectly with the duties of the Chief Coroner or any Coroner or any member of the provincial Coroner’s service (“Chief Coroner and Staff”).
2. Whether any third parties have required the Chief Coroner and Staff to remit draft documents, including inquiry documents and reports, for review and recommendation before release to the public, including but not limited to remitting draft documents to the public relations bureau of the provincial government.
3. Whether any third parties have placed direct or indirect political pressure on the Chief Coroner and Staff to temper the public comments of the Chief Coroner and Staff.
4. What caused to the sudden and unexpected resignation of Dr. Diane Rothern, and in particular, whether whatever led to her resignation was improper or illegal generally, or reflects improper or illegal interference with the Chief Coroner and Staff by a third party.

All of which is respectfully submitted on behalf of the B.C. Civil Liberties Association.



Robert Holmes

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