

AISHWARYA ASWATH AND COHEN FINK — CORONIAL INQUESTS

189. Hon NICK GOIRAN to the parliamentary secretary representing the Attorney General:

I refer to the powers under section 22(1) of the Coroners Act 1996 to direct that a coroner holds an inquest.

- (1) On how many occasions has the Attorney General used that statutory power of direction from the time he was first appointed on 17 March 2017?
- (2) On how many occasions has the State Coroner used that statutory power of direction since 17 March 2017?
- (3) Following the death of Aishwarya Aswath —
 - (a) has a coroner issued a section 24 notice of refusal; and
 - (b) has the State Coroner directed a coroner to hold an inquest?
- (4) Following the death of Cohen Fink —
 - (a) has a coroner issued a section 24 notice of refusal; and
 - (b) has the State Coroner directed a coroner to hold an inquest?
- (5) If yes to any part of (3) or (4), on what date?
- (6) Will the Attorney General direct a coroner to hold an inquest into one or both of those deaths?
- (7) If yes to (6), for which one and when will this direction be made?

Hon MATTHEW SWINBOURN replied:

I thank the member for some notice of the question. I provide the following response on behalf of the Attorney General.

- (1) According to advice from the Department of Justice, since the Coroners Act was enacted in 1996, no Western Australian Attorney General has ever exercised the power of direction under section 22(1)(d) of the act. Further, no examples have been found of an Attorney General in any other Australian state or territory directing that an inquest be held.
- (2) According to advice from the Department of Justice, there has been none.
- (3)
 - (a) No.
 - (b) On 14 May 2021, the Deputy State Coroner determined that an inquest would be held into Aishwarya's death.
- (4)
 - (a) On 2 January 2020, the State Coroner notified the Fink family's lawyers of her decision to refuse to hold an inquest, including the reasons for making that decision. On 27 May 2021, the Coroner's Court notified the Fink family's lawyers that the decision to refuse to hold an inquest was being maintained, including the reasons why.
 - (b) No.
- (5) See answers to part (3)(b) and (4)(a).
- (6) The Attorney General does not have the power to direct that there be an inquest into either death. In Aishwarya's case, the Deputy State Coroner has already determined that there will be an inquest. As the matter is now before the Coroner's Court, it would be inappropriate to comment further.

The Solicitor-General has advised that once a coroner has decided to not hold an inquest, the Attorney General does not have the power to overrule that decision and direct that an inquest be held. Therefore, in the late Cohen Fink's case, the Attorney General has no power to direct that there be an inquest. As this matter is now the subject of Supreme Court proceedings, it would be inappropriate to comment further.
- (7) Not applicable.