

PM's legal aid scheme not working, says Bar Council

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The police did not inform the National Legal Aid Foundation (YBGK) of the arrest of two persons who were later found dead in police custody over the past six months.

In a press release today, Bar Council president Christopher Leong said that under the YBGK protocol, enforcement officers must inform the YBGK of an arrest prior to the suspect being questioned.

This is to allow the YBGK to despatch a lawyer to offer legal representation to the detainee.

NONE However, this process was not followed in the case of N Dharmendran who died in police custody on May 21 while another detainee, K Nagarajan, was found dead on Dec 12 last year.

"We regret to note that this is the second occasion that we are aware of where YBGK was not notified of an arrest and the detainee later died in police custody.

"The present state of affairs has led to much public outrage and an erosion of confidence in the police," warned Leong (left).

He said that the police must be proactive to ensure that wrongful actions amongst them to not tarnish the whole force.

YBGK was launched in February 2011 by Prime Minister Najib Abdul Razak, promising free legal aid for those earning less than RM25,000 a year.

Dedicated Coroners' Court

Leong explained that the Criminal Procedure Code stipulates that all custodial deaths must be investigated by way of inquest, but no inquest is held in most instances.

On the rare occasions where an inquest on those who died in the custody of law enforcement agencies have resulted in "open verdicts".

In view of this, Leong said the Malaysian Bar urges the federal government to introduce a Coroners' Act and establish a Coroners' Court with the following

features:

- 1) A clearly stated aim to identify the deceased and ascertain how, when and where the person died;
- 2) The creation of a state coroner and coroners appointed by the prime minister upon recommendation of the chief justice;
- 3) Special training for coroners to gather evidence, make findings and preside over inquests;
- 4) Ensure that only pathologists, or doctors supervised by pathologists, may conduct post-mortems.

Currently, magistrates act as coroners and are assisted by deputy public prosecutors.

Leong added that the unabated deaths in police custody (156 persons between 2000 and Feb 2011, or about 1.16 person a month) reinforced the Malaysian Bar's repeated calls for the establishment of the Independent Police Complaints and Misconduct Commission (IPCMC).

In 2013 alone, Leong noted that there had been five known cases of police custodial deaths while there were six cases in 2012.

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