

**IMMEDIATE RELEASE
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**CLARIFICATION ON DISPOSAL OF SUICIDE INSTRUMENTS
IN THE DEATH OF DR SHANE TODD**

The article published by CBS on 24 July 2014, "Singapore gov't destroyed evidence in US engineer's death" (<http://www.cbsnews.com/news/singapore-government-destroyed-evidence-in-us-engineers-death/>) inaccurately presents certain facts. The article conveys the impression that Dr Shane Todd's Next-of-Kin (NOK) professed their desire for the noose and towel to conduct further tests on them, and were denied this.

2 The Attorney-General's Chambers notes with surprise the claim which the NOK now make through the media regarding their reasons for requesting the return of the exhibits. It bears mention that these reasons only materialised after the order for forfeiture was made. Prior to this, for more than 6 months the NOK failed to make known the reason for this request to the Coroner. Their legal representative Mr Remy Choo Zhengxi, was specifically asked by the Coroner to provide a reason and was given considerable latitude to do so. Counsel for the NOK's only response throughout the protracted disposal proceedings was that the NOK had a proprietary right to the exhibits and it was unnecessary for them to let the Coroner know what they intended to do with the same.

3 It has never been the State's position to deny the NOK a chance to re-test the exhibits. Rather, State Counsel's objection was in relation to the return of the exhibits in the absence of any plausible reason provided for their return, given their nature as implements of suicide. At the disposal hearing before the State Coroner which was recently concluded, the position taken by State Counsel was that given the nature of noose and towel as suicide instruments, they should be forfeited to the police, unless there were cogent reasons why this should not be done. This position was conveyed to the State Coroner in the presence of the NOK's counsel, Mr Choo Zhengxi, and is consistent with usual practice, as well as the practice of many other foreign jurisdictions.

4 Ample time was given by the Coroner to Mr Choo to present the NOK's reasons for requesting the noose and towel. The Coroner directed that the items be retained in police custody for *6 months*, during which the NOK could write to the court, or State Counsel, to explain why they wished to have possession of the noose and the towel. The validity of any reason(s) would be considered and if necessary appropriate arrangements could be made (for instance, direct measures to safeguard the integrity of the exhibits for re-testing). No reasons were provided.

5 After the six-month period, the Coroner ordered that the items be dealt with in the usual manner. In response to this order, Mr Choo obtained a stay of execution from the Coroner for 2 weeks so that he could take instructions on whether to take the matter further. There was no word from Mr Choo during the 2 week period. However, after the two-week period had expired, he wrote to AGC to ask if the items had been disposed of.

6 We note that in paragraph 8 of the CBS article, it was reported that the NOK's "Singaporean lawyer refused the request" to explain why the NOK wanted the noose and the towel. The NOK's counsel, who was unnamed in the article, was quoted as such: *"In law, there is no reason to explain why you want your property back," he wrote to the family. "It's like justifying to a robber why you want your belongings returned. Sheer chutzpah. It's the family's by right"*. This is even more surprising, as it suggests that the NOK's refusal to disclose the reason(s) for wanting the noose and towel was deliberate, and the counsel apparently advised the NOK to adopt such stance.

7 Having considered the totality of the evidence, the Court recorded a finding that the evidential value relating to the DNA found on the noose and towel was "limited".

8 Significantly, the NOK had not made any application to have the exhibits tested at the Inquiry stage last year, despite having the DNA report ahead of time. The evidence relating to the strap and towel had been fully canvassed during the Coroner's Inquiry (CI) and dealt with by the Coroner in his findings, which are also publicly available. The DNA report in relation to the noose and towel was served on the NOK's previous counsel well in advance of the Inquiry (held from 13 to 27 May 2013) on 19 April 2013. Yet, there was no allegation of flawed testing or erroneous DNA results prior to the Inquiry and no request for any re-testing of these exhibits. The NOK, who were then represented by counsel, had ample time and every opportunity to examine the DNA report and to question Mr Kua on the results of his analysis. Court records show that neither the NOK nor their appointed counsel at the CI had challenged the accuracy of Mr Kua's analysis during the Inquiry.

9 The NOK had, for the lengthy period of about 13 months (calculated from the time the DNA report on the exhibits was first furnished to the NOK until the end of the disposal proceedings), not expressed any desire to re-test the exhibits. It was only after the Coroner finally made the order for the forfeiture and disposal of the exhibits that they have made known their reason to re-test the exhibits.

Brief Summary of the Proceedings of Disposal Hearing
(in relation to the disposal of the noose and towel)

- **On 30 August 2013**, the State Coroner's Personal Assistant wrote to inform parties (the State, Counsel for IME, and Counsel for NOK Mr Remy Choo Zhengxi) that the Disposal Inquiry would be held on 30 September 2013. The exhibits to be disposed off included the noose and the towel.
- **On 29 September 2013** – one day prior to the Disposal Inquiry – AGC was only notified that the NOK wished to have possession of the noose and towel. As such, during the Disposal Inquiry held on 30 September 2013, State Counsel sought an adjournment to make a decision on these 2 exhibits. The State Coroner granted the adjournment and fixed the matter to be heard on 18 October 2013. Consul from the US embassy Craig Bryant was present at this hearing.
- **On 18 October 2013**, State Counsel suggested to the State Coroner that the exhibits remain in the custody of the police for a year and if, during the period, the NOK wants the release of the exhibit (for a re-test or otherwise), it is to write to the PP with its detailed grounds in support of their application. This proposal was to allow the State to properly consider any request of the NOK and (if the object is indeed for a re-test) afford the parties a chance to discuss how best to preserve the integrity of the exhibits, when released. **Counsel for the NOK was present at the hearing on 18 October 2013 but did not inform the State or the State Coroner that his clients/the NOK wished to have the exhibits for the purpose of re-testing.** Counsel also stated that the Court should not “second guess” the NOK's objective in securing the return of the exhibits. The State Coroner then stated that the usual protocol is for the disposal of implements used in hanging cases and directed that the exhibits be retained in police custody for 6 months, during which the NOK may write in to the court, or to the State, to explain why they wished to have possession of the noose and the towel. The validity of any reason(s) would be considered and if necessary appropriate arrangements could be made (for instance, direct measures to safeguard the integrity of the exhibits for re-testing).
- Upon the expiry of 6 months, the State would write to the Coroner for a further mention date and, on the appointed date, seek a final order vis-à-vis the exhibits. However, the NOK did not write to the State Coroner or the State during this six-month window to furnish reasons as to why they wished to have the exhibits returned to them. Upon the expiry of the six-month window and in accordance with the State Coroner's directions, State Counsel wrote to the Court for a final order with regard to the exhibits.

- The matter was heard on both **15 May 2014 and 28 May 2014**. On both occasions, Counsel for the NOK was present but did not provide any reasons as to why the NOK wished to have the exhibits returned to them. When pressed by the State Coroner to provide the precise reasons as to why the NOK wished to have the exhibits returned to them, Counsel for the NOK said that the exhibits *might* be needed for further testing but he did not have instructions to confirm this.
- **On 28 May 2014**, the State Coroner Chay Yuen Fatt made the decision to forfeit the exhibits to the State for destruction. The State Coroner explained that the noose and towel were used by the deceased to hang himself and were not personal effects of the deceased. Given their nature, the starting point would be for forfeiture to the State. The NOK were also afforded ample opportunity to present reasons as to why they wanted the exhibits and/or to arrange with the State to have them re-tested. Significantly, the NOK had taken neither course of action. Even their Counsel admitted that he did not have the NOK's instructions on their actual reasons for wanting the return of these exhibits. The State Coroner observed that the exhibits were not of monetary or sentimental value and agreed with the State that given the nature, condition and value of the exhibits, it was not appropriate to order their return. There were also sensitivities in returning the exhibits and the State Coroner was of the view that returning the exhibits would entail emotional trauma and be counterproductive to the NOK's emotional healing process. He also noted that there was no public interest in ordering the return of the exhibits. Accordingly, he ordered that the exhibits be forfeited to the State for their destruction.
- In response to this order, counsel for the NOK obtained a stay of execution for 2 weeks so that he could take the NOK's instructions on whether to take the matter further. There was no communication from the NOK or the NOK's counsel during the two weeks when the order for forfeiture was stayed. These exhibits – the noose and towel – were thus dealt with in accordance with the order given by the State Coroner.
- **On 18 June 2014**, Mr Choo emailed and called AGC to seek confirmation that the noose and towel were already disposed off.
- **On 11 July 2014**, AGC wrote to Mr Choo to inform him that the noose and towel were disposed of.