

Strengthening Medicolegal Death Investigation in Zambia-Legal Framework.

Dr. Mucheleng'anga Adam Luchenga
State Forensic Pathologist
Office of the State Forensic Pathologist
Ministry of Home Affairs



Introduction

- Zambia has two statutes that Govern MLDI.
- The Inquests Act of 1939 established a coroner system in Zambia.
- The National Forensic Act of 2020 which establishes the Office of the State Forensic Pathologist (OSFP).
- In this presentation, I will discuss :
 1. the MLDI under the old coroner system in Zambia
 - the standards advocated for in the National Forensic Act
 - the advocacy process
 2. the new hybrid system
 - efforts in implementing changes.
 - the experiences of the evolution of the traditional system to the modern one.

THE INQUESTS ACT

CHAPTER 36 OF THE LAWS OF ZAMBIA

CHAPTER 36 THE INQUESTS ACT

THE INQUESTS ACT

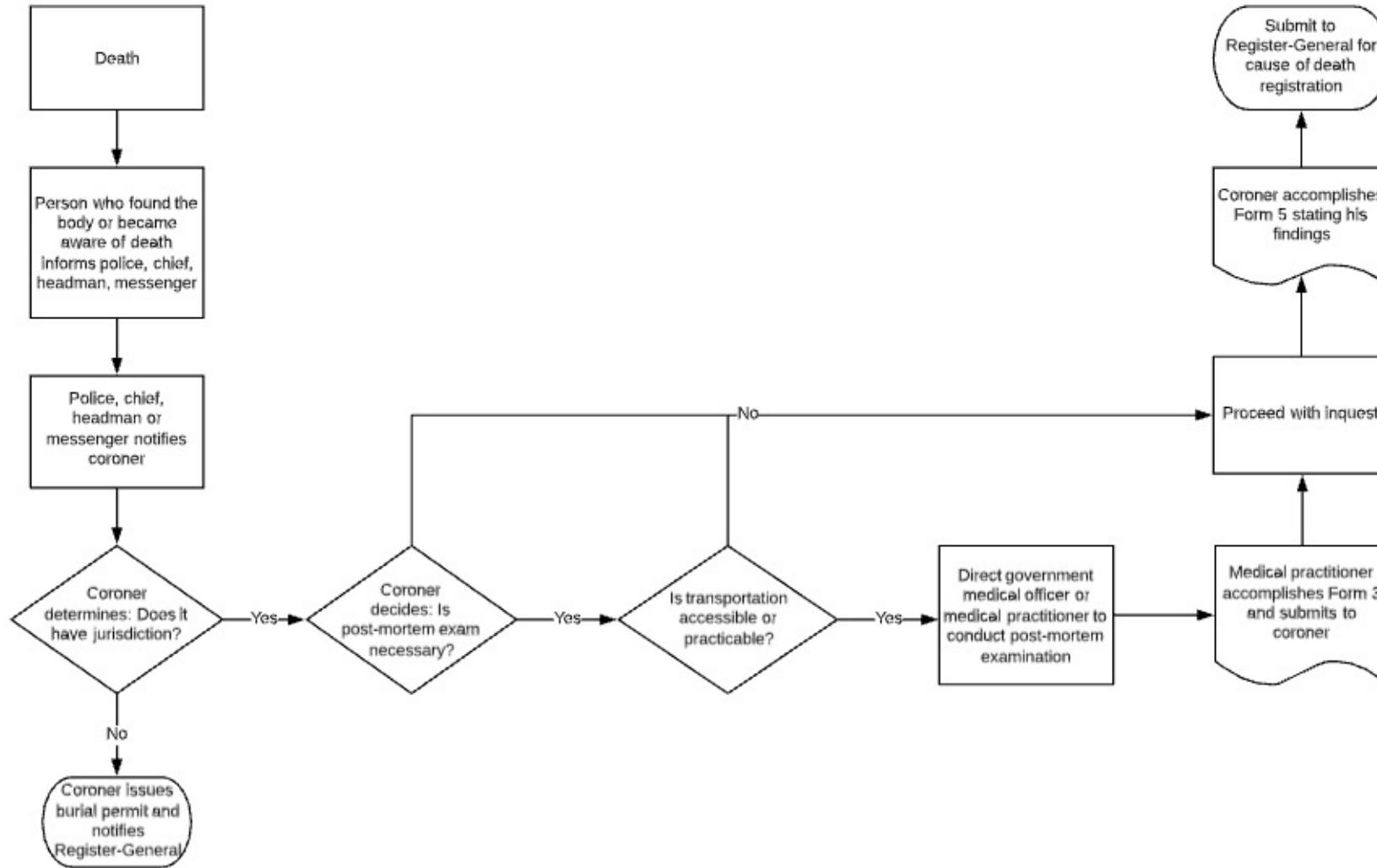
Coroner System of MLDI

- Zambia's coroner system established under the Inquests Act in 1939.
- Coroners are either:
 - sitting magistrates of Subordinate Courts or
 - lay persons appointed by the Judicial Service Commission.
- Coroners lead the investigation of deaths through inquests and to **determine the cause of death; the identity of the deceased; how, when, and where the deceased died; persons to be charged with the death of the deceased; and any other particulars required by law. .**

Coroner System of MLDI

- Upon notice of a death, the coroner determines based on a report from an MO or on **his/her own** if a death is medicolegal
- The coroner then orders **an MO to conduct a post-mortem examination**. The MO accomplishes the Coroner's Form 3 stating the cause of death, and submits it to the coroner.
- The coroner then summons and examines witnesses, gather statements recorded by police officers, and issue warrants as may be necessary.
- The coroner may dispense with an inquest if it appears from the **medical report or his/her determination** that the death is due to natural causes.

MLDI Process under the Inquests Act



The standards advocated for in the National Forensic Act

- Provision of a reliable, accountable and credible death investigation system
 - Institutionalization of the forensic pathology and forensic science services
- Regulation of the forensic pathology and forensic science services
 - use of validated methods and techniques in the identification, collection, transportation, preservation, storage, custody and interpretation of evidential material.

The advocacy process

- Consultative Meetings with Stakeholders
 - Ministry of Home Affairs
 - Police Service-Forensic Section
 - Anti – Terrorism Center
 - Drug Enforcement Commission
 - Ministry of Justice
 - Coroners
 - Ministry of Health
 - Health Professions Council of Zambia
 - Human Rights Commission
 - Ministry of Defence

The advocacy process

- Consultative Meetings with Stakeholders
 - Zambia Bureau of Standards
 - Zambia Compulsory Standard Agency
 - Zambia Environmental Management Agency
 - Radiation Protection Authority
 - Law Association of Zambia
 - Women And Law in Southern Africa
 - Zambia National Bio – Safety Authority
 - Representatives of Members Of The Community
 - Forensic Pathologists
 - Forensic Scientists

The advocacy process

- Rationale as delivered to stakeholders:
 - The delivery of justice involves the increased use of scientific and forensic evidence.
 - Evidence shows that although forensic services are an essential element of any effective Criminal Justice System, these services were not provided professionally and adequately due to the absence of a legal framework.
 - The use of forensic services had remained rudimentary and fragmented leading in miscarriage of justice and loss of public confidence in the Criminal Justice System.
 - Legislation was needed to compel forensic service providers to use validated methods and techniques in Forensic Science and Forensic Pathology.

THE NATIONAL FORENSIC ACT, 2020

ARRANGEMENTS OF SECTIONS

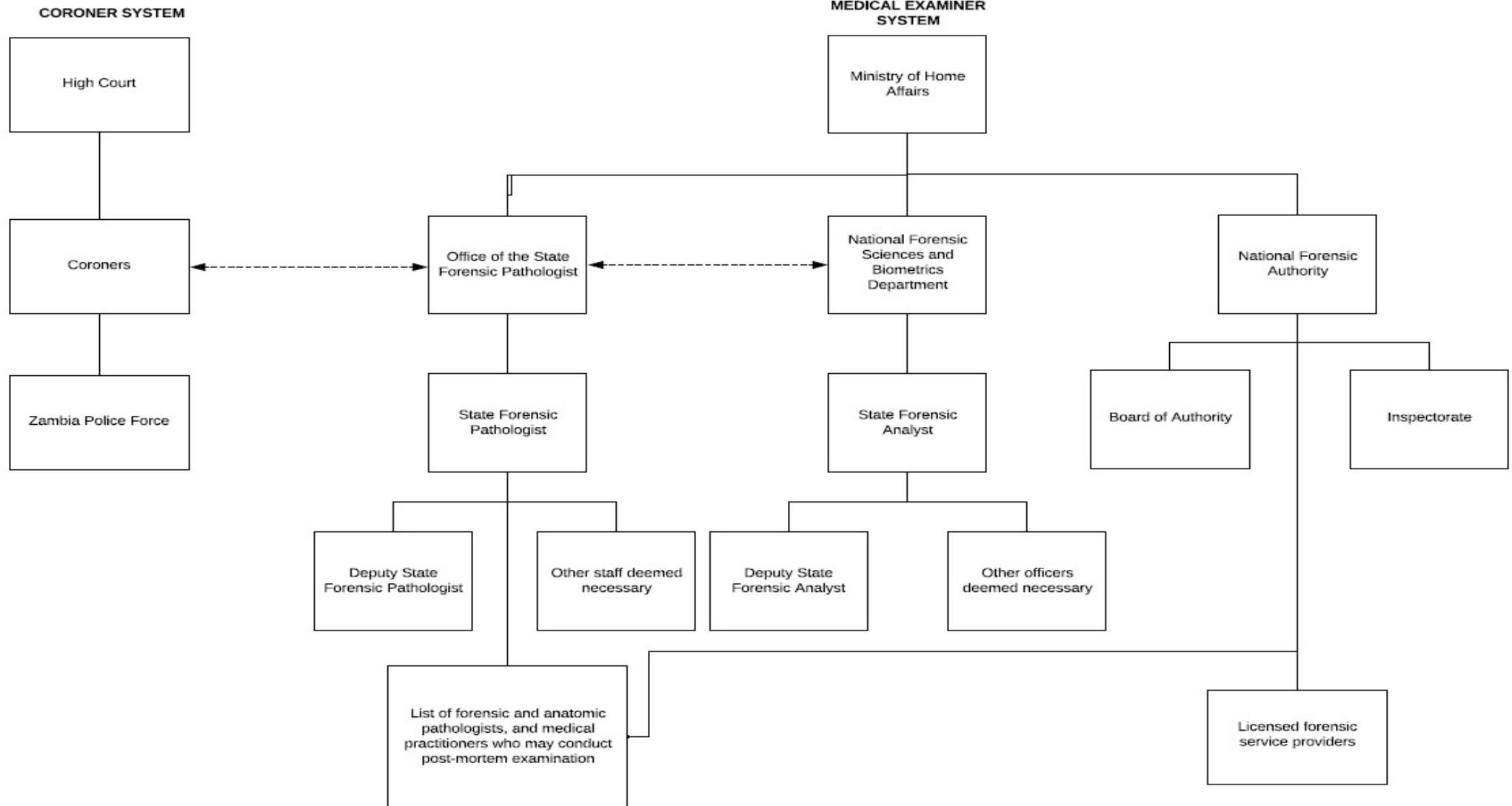
PART I

PRELIMINARY PROVISIONS

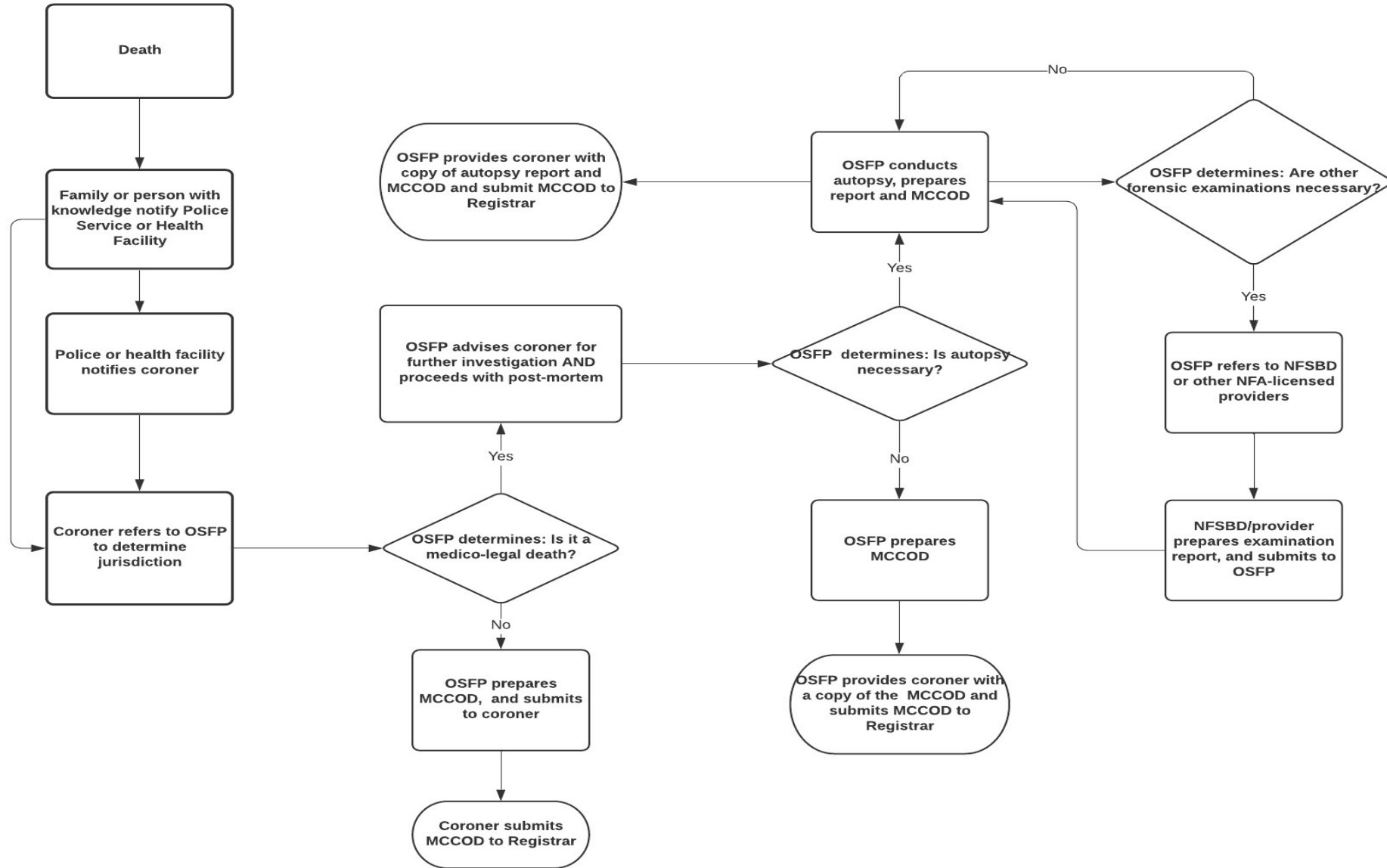
The new hybrid system

- The National Forensic Act modernizes MLDI system by establishing the OSFP responsible for the conduct of post-mortem examinations in MLDI, the NFSBD, responsible for forensic analysis and biometrics, and the NFA, a regulator of forensic services.
- The Act mandates the OSFP to provide facilities and staff for post-mortem examinations, and, supervise forensic pathology services.
- Upon completing its investigation, the OSFP is required to report post-mortem examination findings to Coroner and the Zambia Police Service.

The new hybrid system



Process Chart



Efforts in implementing changes.

- A commence order has been signed by the Minister.
- The OSFP has been established.
- A regulator has been established.
- A forensic science service provider has been established.
- Currently planning for staffing in the OSFP
 - Operations
 - Training

Experiences of the evolution of the traditional system to the modern one.

- Change management.
 - Transition phase
- Resistance to change.
- Funding.