

# **Coroners Court of Victoria**

## **Media Guidelines**

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## Introduction

The *Coroners Act 2008* became operational on 1 November 2009, establishing the Coroners Court of Victoria as a specialist inquisitorial court while strengthening the capacity of the jurisdiction to contribute to the public health and safety of all Victorians.

Key to this reform is the Preamble to the Act, which clearly defines the role and importance of the coronial system within Victoria by stating the jurisdiction involves:

“The independent investigation of deaths and fires for the purpose of finding the causes of those deaths and fires, and to contribute to the reduction of the number of preventable deaths and fires, and the *promotion* of public health and safety, and the administration of justice.”

As a mark of its significance, the value attached to the function of promoting public health and safety was enshrined in the Act with requirements under Section 73 (1) and Section 72 (5) (a) to publish on the internet the findings, comments and recommendations made by a coroner following an inquest, and the responses of public statutory authorities or entities who were the subject of coronial recommendations.

These Media Guidelines have been developed in the above context where the recognised and legislated aim of the court is to publicly publish and promote its work by making coronial findings more openly accessible than was required under the previous *Coroners Act 1985*.

It follows that increased publicity and access to coronial findings will result in increased media interest in role of the court. Such interest is likely to translate to an increased media presence at coronial proceedings and increased media applications for access to coronial documents and information.

These Media Guidelines are intended to assist the court in the appropriate administration of such media applications by working towards the following aims:

## **Aims**

- to promote transparency of coronial proceedings and the administration of justice
- to facilitate fair and accurate reporting of matters before the court
- to promote public health and safety
- to develop and enhance community understanding of the coronial jurisdiction in general.

The deeply sensitive and sometimes graphic nature of evidence gathered during the course of a coronial investigation may require that particular information and/or documentation not be published or be prohibited from disclosure pursuant to Section 18 (2) of the *Open Courts Act 2013*.

These Media Guidelines are subject to the exercise of the coroner's judicial discretion. At all times, the coroner has the power to regulate the proceedings of his or her court, or the release of information in any case that is or has been investigated by a coroner.

## **Definitions**

A '**finding**' for the purposes of these Media Guidelines is a written finding made by coroner and includes findings with inquest, findings without inquest or determinations or rulings.

A '**journalist**' is a person employed as a journalist by a media publisher, broadcaster or organisation, and/or is a current member of the Media Entertainment and Arts Alliance, and/or is a freelance journalist or writer.

**‘Publish’**<sup>1</sup> means to disseminate or provide access to the public or a section of the public by any means, including:

- (a) publication in a book, newspaper, magazine or other written publication
- (b) broadcast by radio or television
- (c) public exhibition
- (d) broadcast or electronic communication.

The **‘Coroner’s Assistant’** is a Victoria Police member, usually based within the Police Coronial Support Unit. The Coroner’s Assistant provides support to the coroner during a coronial investigation, sits at the bar table in court during an inquest and leads witnesses through their evidence.

The **‘Counsel Assisting the Coroner’** is a lawyer who provides support to the coroner during inquests where it is not appropriate for members of Victoria Police to provide assistance (such as in inquests involving fatal police shootings or pursuits or in any case where the actions of police may come under scrutiny.). The Counsel Assisting the Coroner sits at the bar table in court during an inquest and leads witnesses through their evidence.

The **‘Senior Next of Kin’** is usually a family member or close friend of the deceased defined by a coroner as being the senior next of kin in accordance with the senior next of kin hierarchy pursuant Section 3 (1) of the Act.

An **‘Interested Party’** is usually a lawyer who sits at the bar table in court and represents individuals or organisations that have had some connection or involvement in a death or fire being investigated by a coroner. The coroner determines whether an individual or organisation has sufficient interest in a matter in order to grant them leave to appear at an inquest pursuant to Section 56 of the Act. In some cases, family members of deceased persons who choose not to have legal representation at an inquest, are granted leave to appear as an interested party.

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<sup>1</sup> The word "publish" has the same meaning as provided for in the Part 1 - Preliminary Section of the *Open Courts Act 2013*.

# Media Guidelines

## General enquiries

1. For all general enquiries, journalists should contact the court's Communications Manager on 8688 0735 or via email on [mediaenquiries@coronerscourt.vic.gov.au](mailto:mediaenquiries@coronerscourt.vic.gov.au)

## Confirmation of the identity of deceased

2. The court will not confirm the identity of deceased persons to journalists unless otherwise ordered by a coroner. Any confirmation of identification will always be subject to the consent of the Senior Next of Kin.

## Use of electronic equipment in court

3. Journalists may, without seeking permission, make use in court of personal laptop computers, electronic tablets, and mobile phones for the purposes of electronic note-taking, text messaging and filing stories, so long as that use does not interfere with the proceeding.
4. Journalists must not, without the permission of the presiding coroner, use electronic equipment in court in circumstances where such use constitutes instantaneous publication (for example, live blogging or tweeting) as this may defeat or compromise a non-publication (suppression) order or an in camera order or adversely affect the administration of justice in some other way.

## **Recording of findings and other proceedings**

5. a) Journalists who wish to audio record the handing down of an inquest finding with a view to audio broadcasting or publishing the coroner's comments and recommendations must contact the Communications Manager in advance. Journalists wishing to make applications to audio record the handing down of findings should make their requests in writing (email acceptable) to the court's Communications Manager. Recording findings for audio broadcasting or publishing is subject to the permission of the presiding coroner.
- b) Recording of any other part of a coronial proceeding, other than the handing down of a finding, is prohibited without the permission of the presiding coroner. Journalists wishing to make applications to audio record other parts of a coronial proceeding should make their requests in writing (email acceptable) to the court's Communications Manager.
- c) Journalists may ask to listen to the court's audio recording of the handing down of a finding or other part of a coronial proceeding for the purposes of accurate reporting. Such a request should be made in writing (email acceptable) to the court's Communications Manager. Permission to listen to the court recording is subject to the permission of the presiding coroner.
- d) Video recording or the taking of still photographs inside the courtroom during the handing down of a finding is prohibited without the permission of the presiding coroner. Journalists wishing to make applications to video record or take still photographs during the handing down of a finding should make their requests in writing (email acceptable) to the court's Communications Manager.
- e) Video recording or the taking of still photographs inside the courtroom during a part of a coronial proceeding, other than the handing down of a finding, is prohibited.

## **General video and photography inside the court building**

6. Video recording or the taking of still photographs inside the court foyer or inside the court building generally is prohibited without the permission of the State Coroner or Deputy State Coroner. Journalists wishing to take video or photographs inside the court building should make an application in writing (email acceptable) to the court's Communications Manager.

## **Photographs and filming of coroners**

7. Photographing or filming of coroners entering or leaving the court is not to occur. To assist the media, pre-recorded photographs or film of a coroner in court may be made available if the coroner agrees. To obtain this material, journalists should make a request in writing (email acceptable) the court's Communications Manager.

## **Access to files and documents**

### **During a proceeding**

#### **Witness statements and exhibits**

8. Journalists may make applications to obtain copies of witness statements and other exhibits after they are tendered during the course of a proceeding. Journalists making such applications must complete a *Form 45 – Access to coronial documents/inquest transcripts*. This form must be provided to the court's Communications Manager or to the registrar bench clerking during the proceeding. Release of witness statements is conditional upon the journalist having been present in court to have heard all the relevant evidence in connection to those statements or exhibits at the time at which they were tendered. Release of witness statements and/or exhibits is prohibited without the permission of the presiding coroner.

## **Opening summaries**

9. Journalists may make applications to obtain copies of the written opening summary of circumstances read out in court at the beginning of an inquest by the Counsel Assisting the Coroner or the Coroner's Assistant. Journalists making such applications must complete a *Form 45 – Access to coronial documents/inquest transcripts*. This form must be provided to the court's Communications Manager or to the registrar bench clerking during the proceeding. It is *not* a condition of release that the journalist be present in court to hear the opening summary of circumstances, provided that the summary is based on agreed facts not likely to be contested during the proceeding. Release of the opening summary of circumstances is prohibited without the permission of the presiding coroner. Counsel Assisting the Coroner and Coroner's Assistants do not make opening summaries of circumstances at the beginning of every inquest.

## **Written submissions**

10. Journalists may make applications to obtain copies of the written submissions read out in court at the closing of an inquest by the Counsel Assisting the Coroner or the Coroner's Assistant and interested parties. Journalists making such applications must complete a *Form 45 – Access to coronial documents/inquest transcripts*. This form must be provided to the court's Communications Manager or to the registrar bench clerking during the proceeding. It is *not* a condition of release that the journalist be present in court to hear the written submissions. Release of the written submissions is prohibited without the permission of the presiding coroner. Counsel Assisting the Coroner or the Coroner's Assistant and interested parties do not make written submissions at the close of every inquest.

## Following the closing of a proceeding or investigation

### Inspecting court files

11. a) Journalists may make applications to inspect court files once a proceeding has concluded and an investigation is closed, providing that the investigation closed from 1986 onwards<sup>2</sup>
  - b) Journalists making such applications must complete a *Form 45 – Access to coronial documents/inquest transcripts*. This form must be provided to the court's Communications Manager. Permission to inspect a court file is subject to the permission of the presiding coroner. In circumstances where the presiding coroner no longer holds the office of coroner, the authority to grant permission to inspect the court file will defer to the State Coroner or Deputy State Coroner
  - c) Inspections are to be undertaken at the court located at 65 Kavanagh Street, Southbank or at the relevant regional magistrates' court. Documents may also be photocopied for a fee
  - d) A coroner may impose conditions on the release of any document pursuant to Section 115 (3) of the Act.
12. The sensitive and sometimes graphic material contained within a coronial court file is subject to the approval of the presiding coroner as to its appropriateness for inspection and release pursuant to Section 8 (e) of the Act, which requires coroners, as far as possible in the circumstances, to consider:

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<sup>2</sup> Access to Victorian coronial court records was previously governed by the *Coroners Act 1985*, which contained a presumption of public access to closed files. However, this access regime was the subject of some criticism in the Victorian Law Reform Committee Report into the *Coroners Act 1985* released in September 2006 and, as a result, the court's records governance was changed following the introduction of the *Coroners Act 2008* (the Act) in November 2009. The Act articulates a new access to documents framework, specifically Section 115 of the Act overturns the presumption of public access to coronial records. As a result of this legislative change, the court sought a declaration under the *Public Records Act 1973* for all coronial records dating from 1986 to the present to be closed to public access for a period of 75 years. This change came into affect in August 2010. Applications to inspect closed coronial files pre-1986 should be made to the Public Records Office of Victoria.

That there is a need to balance the public interest in protecting a living or deceased person's personal or health information with the public interest in the legitimate use of that information.

13. As a guide, documents and materials that may be considered appropriate for inspection and release include:
  - opening summary of circumstances
  - transcript of evidence
  - witness statements
  - documentary exhibits (including some reports, photographs, videos and records of interview)
  - final submissions
  - a copy of the written finding.
  
14. As a guide, documents and materials usually considered inappropriate for inspection and release may include:
  - the complete medical examination (autopsy) report
  - photographs of the deceased taken as part of the medical examination
  - graphic photographs of the deceased taken at the scene of death
  - any information that is the subject of an existing suppression order under section 18 (2) of the *Open Courts Act 2013* or any other relevant legislation.

15. When the coronial investigation is closed with a finding without inquest<sup>3</sup>, the court will contact the Senior Next of Kin to obtain their view about the release or inspection of any documents contained within the court file. The views of the Senior Next of Kin will be taken into account by the investigating coroner as part of their considerations about whether the material or documents should be inspected or released. In circumstances where the investigating coroner no longer holds the office of coroner, the decision regarding any applications to release documents or inspect the court file will defer to the State Coroner or Deputy State Coroner.
  
16. Attempts by the court to contact the Senior Next of Kin to seek their views regarding the inspection or release of documents contained within the court file may take some time, particularly if the case is several years old. Media should factor this information into their projected deadlines when seeking to inspect or have documents released from court files in circumstances where the coronial investigation was closed by a finding without inquest.

### **Access to coronial data and statistics**

17. a) Journalists may request the court to provide statistical information regarding the number and types of deaths or fires reported to the court. Such applications should be made in writing (email acceptable) to the court's Communications Manager. The release of such information is subject to the court's available resources at any given time and the permission of the State Coroner, Deputy State Coroner or Chief Executive Officer.
  
- b) As a general rule, the court does not release data relating to open cases that are still under investigation. The release of open case data may be unintentionally inaccurate as the coroner has not yet completed an investigation into all the available material and determined the cause, circumstances or possible contributing factors that may have led to the death or fire.

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<sup>3</sup> A finding without inquest is a written finding made by a coroner based on the material contained within the brief of evidence without that evidence having been tendered in open court and without witnesses being called to provide oral evidence in open court. Therefore, findings without inquest are not generally considered matters of public record.

- c) The court may chose to de-identify closed case data so as to minimise the impact on families and friends of deceased persons.

## **Publication of coronial findings and recommendations**

- 18. The court will publish all inquest findings and all findings without inquest that contain recommendations on the Internet as soon as is practicable pursuant to Section 73 (1) of the Act, unless otherwise ordered by a coroner. Coroners' findings are published on the court website at [www.coronerscourt.vic.gov.au](http://www.coronerscourt.vic.gov.au)

## **Publication of responses to recommendations**

- 19. The court will publish all responses to coronial recommendations on the Internet as soon as is practicable pursuant to Section 72 (5) (a) of the Act, unless otherwise ordered by a coroner. Responses to coronial recommendations are published on the court website at [www.coronerscourt.vic.gov.au](http://www.coronerscourt.vic.gov.au)

## **Restrictions on publication**

### **Proceeding Suppression Orders**

- 19. Section 18 (2) of the *Open Courts Act 2013* empowers coroners to make Proceeding Suppression Orders (non publication orders).

### **Other legislative restrictions**

- 20. Journalists should particularly be aware of the *Open Courts Act 2013*, which consolidates provisions for suppression orders relating to information derived from proceedings applicable to prescribed courts and tribunals. This court will uphold suppression orders previously made under sections 73 (2) and (3) of the Act, prior to the introduction of the *Open Courts Act 2013*.

## **Requests for comment**

21. In general, coroners will not provide comment to the media. In particular, coroners will not make comments in relation to their cases.
22. Journalists may make requests for comment in relation to general matters to the court's Communications Manager. Such requests should be made in writing (email acceptable) to the court's Communications Manager.