

Coroners Court of Victoria

Public

Practice Direction 4 of 2014

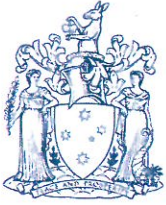
Police contact deaths

Background

1. This practice direction is made pursuant to section 107 of the *Coroners Act 2008* (the Act) and is issued where a death occurs in circumstances involving police contact (police contact death).
2. The Act provides that a coroner should have regard to sections 7, 8 and 9 of the Act when investigating any reportable death or reviewable death.

Definitions

3. Police contact death includes:
 - (a) the death of a 'person placed in custody or care' pursuant to section 3(e) of the Act who was in the legal custody of the Chief Commissioner of Police (e.g. a death in police custody); or
 - (b) the death of a 'person placed in custody or care' pursuant to section 3(f) of the Act, namely a person in the custody of a member of the police force; or
 - (c) the death of a 'person placed in custody or care' pursuant to section 3(g) of the Act, namely a person in the custody of a protective services officer appointed under Part VIA of the *Police Regulation Act 1958* (Vic); or
 - (d) the death of a 'person placed in custody or care' pursuant to section 3(j) of the Act, namely a person who a member of the police force is attempting to take into custody or who is dying from injuries sustained when a member of the police force attempted to take the person into custody (for example, a death as a result of a member of the police force discharging a firearm or a death as a result of a member of the police force engaging in a pursuit); or
 - (e) the death of a 'person placed in custody or care' pursuant to section 3(k) of the Act who was a person in Victoria who is dying from an injury incurred while in the custody of the Chief Commissioner of Police; or
 - (f) circumstances where a member of the police force's conduct immediately preceding the death requires further investigation by the coroner under the Act.



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4. Coroner's investigator means a member of the police force nominated by the Chief Commissioner of Police or any other person nominated by the coroner to assist the coroner with his/her investigation into a reportable death. The coroner's investigator takes instructions directly from a coroner and carries out the role subject to the direction of a coroner.¹
5. Coronial brief means the brief of evidence compiled by the coroner's investigator and may include an inquest brief as defined in section 115(7) of the Act.
6. Member of the police force includes *Police Regulation Act 1958* (Vic) definitions
 - member of the force shall apply to every person (whether male or female) employed in the force ;and
 - the force means officers and other members of the police force of Victoria whether employed upon land or upon water.
7. Directions hearing means a public hearing that is held by the Coroners Court of Victoria in respect of a death (or a fire) for the purpose of the coroner providing interested parties direction as to the scope of the inquest, witnesses to be called and estimated duration.

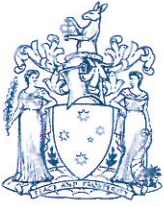
Reportable deaths not deemed to be a police contact death

8. 'Police contact death' does not include any reportable deaths where the post death conduct of the coroner's investigator and/ or any member of the police force are not directly relevant to establishing the identity of the deceased, the medical cause of death and the circumstances in which the death occurred (such as the delivery of the death message to senior next of kin).

Mandatory inquests

9. Section 52(2) of the Act provides that a coroner must hold an inquest into a death if the death or cause of death occurred in Victoria and —
 - the coroner suspects the death was the result of homicide; or
 - the deceased was, immediately before death, a person placed in custody or care; or
 - the identity of the deceased is unknown.

¹ Previously referred to as an investigating member.



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10. Section 52(3) of the Act provides the following exceptions where a coroner is not required to hold an inquest as mandated in section 52(2) if —
- the coroner believes the death probably occurred more than 50 years before the death was reported to the coroner; or
 - a person has been charged with an indictable offence in respect of the death being investigated by the coroner; or
 - an interstate coroner has investigated, is investigating, or intends to investigate the death; or
 - the death occurred outside Australia
11. It is not mandatory for a coroner to hold an inquest into all police contact deaths. The coroner will determine whether it is necessary to hold an inquest into a police contact death.

Independent counsel to assist the coroner

12. Where a death has, *prima facie*, occurred in circumstances involving police contact the coroner will ensure independent counsel assisting is appointed as permitted by, or in accordance with, sections 60(b)-(d) of the Act.

28 day directions hearing

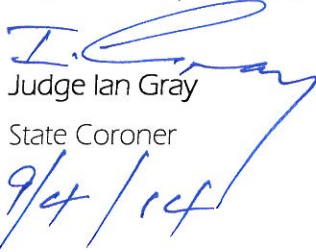
13. The coroner will, unless they order otherwise, hold a directions hearing within 28 days of a police contact death being reported to the coroner. The purpose of the directions hearing is to:
- i) confirm the coroner's investigator for the coroner; and
 - ii) fix the date for the delivery of the coroner's brief to the coroner; and
 - iii) any other directions considered appropriate at that time touching upon the investigation.

Revocation of previous practice directions

14. Practice Direction No 1 of 2012 is rescinded.

Commencement

15. This practice direction takes effect immediately and retrospectively.


Judge Ian Gray

State Coroner

9/4/14