



Australian Capital Territory

Coroner's Court

Coronial Practice Direction No. 2 of 2019
26 June 2019

Release of Information

This direction is issued pursuant to section 51A(2)(a) of the *Coroners Act 1997* ('the Act') and prescribes practices and procedures in relation to the release of coronial information.

Definition

1. The term 'coronial information' is to be broadly construed as information and physical items (including documents and exhibits) gathered as part of the inquest or inquiry process under the Act or otherwise using coronial powers. It includes material in the possession of the ACT Coroner's Court, Police who are investigating on behalf of a Coroner and any investigator appointed by a Coroner for the purposes of an inquest or inquiry.
2. The term 'coronial information' does not, however, include material gathered solely for the purposes of a criminal investigation or material obtained by Police, or others, using methods other than coronial powers.

General Principles

3. Requests for coronial information must be made directly to the Court in writing for consideration in accordance with section 51 of the Act. Such requests must indicate why the requestor is a 'person with sufficient interest' in the relevant inquest or inquiry and specify the particular information or documents being sought. Applications by requestors who are considered to not hold a sufficient interest will be rejected. A request for 'all documents on the court file' will be rejected by the Registry on receipt for lack of specificity.
4. The Court will not recognise coercive processes seeking to gain access to coronial information, such as subpoenas or notices to produce. Any such material served on the Court will be returned unanswered.
5. Documents of a judicial nature cannot be the subject of applications under freedom of information or privacy legislation. Applications of this type made to the Court will be rejected on receipt.
6. Requestors should take note that a Coroner may invoke legal professional privilege in respect of communications between the Coroner and any Counsel Assisting or legally qualified staff providing support to the Coroner and that such documents are unlikely to be released on request. Requestors should also note that usual practice upon finalisation of an inquest or inquiry is for original medical or other records to be returned to the owner and requests to access these materials should be directed to the relevant owner.

Finalisation of Inquest

7. After the finalisation of an inquest, for the purposes of complying with section 54(1), normal practice is for the Registry to send by post a copy of the Coroner's findings to anyone who has been formally recorded on the Court file as a 'member of the immediate family' of the deceased person.¹ The Coroner's findings are also routinely sent to the pathologist who conducted a post-mortem examination (if one was done) and the Australian Federal Police. If a hearing has been held, a copy of the Coroner's findings will be sent by the Registry to any interested party granted leave to appear at the hearing.
8. Any member of the immediate family is entitled to request at any time after finalisation a copy of the Coroner's findings on application in writing to the Court and with sufficient proof of identity and connection to the deceased person.
9. Reports of post-mortem examinations are not routinely released as a matter of course. Any member of the immediate family may request a copy of such a report on application in writing to the Court and with sufficient proof of identity and connection to the deceased person. It is the Court's preferred practice to send this report to a medical professional nominated by the applicant due to the complexity of the content and sensitivity of these reports.
10. For clauses 9 and 10, the sufficiency or otherwise of identity and connection may be assessed by legally trained Registry staff.
11. Any treating professional involved in treating the deceased person in the 6 months prior to death is entitled to request at any time after finalisation a copy of the Coroner's findings and any post-mortem report on application in writing to the Court. Such requests should include proof of identity and treatment relationship to the deceased. For the avoidance of doubt, hospitals and other institutions may request documents under this clause.
12. Any other person may request a copy of the Coroner's findings or other documents on application in writing to the Court in accordance with clause 4 above.

Finalisation of Inquiry

13. After the finalisation of a fire inquiry, for the purposes of complying with section 54(2), normal practice is for the Registry to send by post a copy of the Coroner's findings to any owner of property damaged by the fire identifiable from the court file. The Coroner's findings are also routinely sent to any investigators who investigated the fire on behalf of the Coroner and the Australian Federal Police.
14. Any other person whose property was damaged by the fire is entitled at any time after finalisation to a copy of the Coroner's findings on application in writing to the Court and

¹ 'Member of the immediate family' for a deceased person the subject of an inquest is defined in the Dictionary to the Act as:

- a) a person who was the domestic partner of the deceased person, or a parent, grandparent, child, brother or sister, or guardian or ward, of the deceased person; and
- b) if the deceased person was an Aboriginal or Torres Strait Islander person—a person who, in accordance with the traditions and customs of the Aboriginal or Torres Strait Island community of which the deceased person was a member, had the responsibility for, or an interest in, the welfare of the deceased person.

with sufficient proof of identity and of damaged property. The sufficiency or otherwise of identity and damage to property may be assessed by legally trained Registry staff.

15. Any other person may request a copy of the Coroner's findings or other documents on application in writing to the Court in accordance with clause 4 above.

Coronial Information held by Third Parties

16. The Court considers that coronial information in the possession of third parties such as investigators appointed by a Coroner or Police remains the property of the Court and cannot be released without express coronial authorisation. Applicants who apply to third parties for access to coronial information are to be directed to the Court to make application under section 51 of the Act.
17. For the avoidance of doubt, no documents in relation to a coronial matter in the possession of third party are to be produced by that third party under freedom of information, victims of crime, privacy or any other legislation without the express authorisation of a Coroner. Production of such material by any person or organisation in possession of coronial information without express authorisation will be dealt with as a contempt of the Court.

Coronial Data and Statistics

18. Requests for coronial data or statistics are to be made to the Principal Registrar in accordance with the *Protocol for the release of data relating to the operations of the ACT Courts* published on the ACT Courts' website. Requestors should note, however, that given the resourcing limitations of the Coroners Court, requests that are assessed as requiring significant resources will be refused and applicants directed to the National Coronial Information Service (www.ncis.org.au), who can provide statistical data reports on ACT (and Australian) coronial cases on a fee-for-service basis.

CYPD Review Committee

19. The ACT Children and Young People Death Review Committee has agreed that the obligations of the Court arising under section 727O(1)(a) of the *Children and Young People Act 2008* to release certain information to the Committee will be met at the point of finalisation of an inquest. The information required by statute will be provided electronically as soon as practicable after finalisation and, in any event, within three months.

Review

20. This direction will be reviewed within 12 months of the date of issue.

21. This direction applies until otherwise withdrawn or revoked.

By the direction of the Chief Coroner.



Lorraine Walker
Chief Coroner
ACT Coroner's Court

26 June 2019