

National Missing Persons Coordination Centre



NAVIGATING THE CORONIAL PROCESS

FACT SHEET

Information for families and friends of missing persons

When a person is missing under accidental or suspicious circumstances the case is sometimes referred to the Coroner.

For some families this may create more confusion. While the reality of a missing loved one is challenging to live with due to the unresolved nature of the loss, the presumption of death can be quite traumatic.

The National Missing Persons Coordination Centre, Australian Federal Police has compiled the following information to assist families in navigating the coronial process in relation to missing person's cases.

WHY AND HOW ARE CASES REFERRED TO THE CORONER?

The purpose of the Coroner's court is to review suspicious and accidental deaths. Some states are required to report all outstanding missing persons cases to the Coroner once they reach a certain date as part of a due diligence process. A missing persons case can be reported to the Coroner at any time if there is sufficient evidence to indicate a suspected death.

Where the case is referred by police, the matter is referred to the Coroner in the form of a report which outlines the facts in relation to a missing persons case.

The role of the coroner is to review the evidence presented, and make a finding. With regards to missing persons cases the outcome is generally

that the Coroner is of the belief that there is a probability that the person is deceased, and that this probability has been comfortably satisfied through Police investigation.

If the police investigation fails, on the balance of probabilities, to satisfy this belief then the matter may be referred back to the Police for further investigation.

WHAT IS THE FAMILY'S ROLE IN THE REFERRAL OF A CASE TO THE CORONER?

Police may approach the family when they believe there is enough evidence of a suspected death and therefore necessity for a referral to the coroner.

However if a family feel that their case may be assisted by a Coronial inquest, prior to the Police decision to proceed, then the family can discuss this further with the investigating officer or the Coroner's Office.

In all cases the Coroner must believe that, on the balance of probabilities, a person is suspected of being deceased before an inquest can proceed.

WHAT IS A CORONIAL INQUEST?

A coronial inquest is a court hearing led by the coroner. Coronial inquests are generally open to the public.

An inquest is unlike other court cases in that it is an inquisitorial process. In other words, it is not a trial, with a prosecutor and a defendant, but an inquiry that seeks to find out why the event occurred. This means that the Coroner will not apportion blame or assign guilt, instead only seek to determine the facts to the fullest extent possible.

CONDUCTING AN INQUEST WHEN THE MISSING PERSONS WHEREABOUTS REMAIN UNKNOWN?

The sense of finality that often accompanies a presumption of death can be challenging for families to absorb. For some families finality can only be attained once the missing person is physically located therefore making it difficult for them to completely accept the findings of a Coroner.

The coronial process often creates a mixed response – an anticipation of a resolution through the examination of evidence, coupled with the trepidation that a presumption of death will not bring a family any closer to finding resolution amongst the ambiguity they are experiencing.

Families may wish to seek the support of a counsellor or court support worker to assist them in negotiating the coronial process.



IF THE CORONER DECIDES THAT A MISSING PERSON IS DECEASED WHAT HAPPENS TO THE CASE?

Following a presumption of death, the investigation into the missing persons disappearance will cease. However, if new evidence becomes available the Police are obliged to investigate further.

WHAT IS AN OPEN FINDING?

An open finding relates to there being a lack of evidence in terms of the place, date and manner of the person's death. As with the previous question current investigations will cease until further evidence is obtained.

DO I NEED TO SEEK LEGAL REPRESENTATION IF I ATTENDED THE INQUEST?

This is a matter for family members to decide. You may wish to contact your solicitor or a Legal Aid office in your state to assist you in making that decision.

WILL I BE REQUIRED TO GIVE EVIDENCE?

The Coroner may ask you to give evidence at court as a witness. Alternatively, if you have not been called to give evidence and you believe that there is sufficient reason for you to be called; you may wish to make an application to the court. The Coroner who has jurisdiction in the matter will then consider your written application.

WILL THE COURT COVER TRAVEL AND ACCOMMODATION COSTS?

Only witnesses subpoenaed to attend will have costs paid by the Attorney General's Department within your state.

CAN THE FAMILY ASK QUESTIONS OF WITNESSES/ INVESTIGATING OFFICERS THROUGHOUT THE INQUEST?

Yes. Family members can ask questions of witnesses in a number of ways. Some families choose to employ a solicitor to ask questions on their behalf while other families choose to have one family member act as a representative. Alternatively, family can ask questions of witnesses through the Counsel Assisting the Coroner, otherwise known as a Coronial Advocate.

HOW LONG DOES A INQUEST LAST FOR?

Inquests can vary from an hour to many weeks depending on the complexity of the case and the amount of witnesses called to give evidence. Generally, you will be notified of the amount of time the inquest is 'set down' for. However, depending on the complexity of evidence, the Coroner may conclude the inquest early or extend the inquest to accommodate further witnesses or evidence.

WILL I BE ABLE TO OBTAIN THE FINDINGS OF THE INQUEST IN WRITING?

The next of kin is permitted to obtain a copy of the findings of the coronial inquest. You may need to make an application in writing following the end of the inquest, clerical support at your State or Territory Coroner's Office can assist. Coronial findings are often also published online.

IF THE MISSING PERSONS IS PRESUMED TO BE DECEASED FOLLOWING AN INQUEST, CAN I OBTAIN A DEATH CERTIFICATE?

Yes, the Coroner's Office will refer the family to the Department of Births Deaths and Marriages in their state or territory to apply for a death certificate.

FURTHER INFORMATION

For further information about the Coroner's court in each state contact their office.

ACT	(02) 6207 1754
NSW	(02) 8584 7777
NT	(08) 8999 7770
QLD	(07) 3239 6193
SA	(08) 8204 0600
TAS	(03) 6165 7132
VIC	1300 309 519
WA	1800 671 994