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**Making Coronial Law Accessible:  
The Australian Coronial Law  
Library**

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# Making coronial law accessible: The Australian Coronial Law Library

Philip Chung, Andrew Mowbray and Graham Greenleaf \*

## Coronial inquiries – an enigmatic jurisdiction

Coroners investigate the cause and circumstances of reported death and may make recommendations in their findings following investigations. Recommendations are often directed to governments and other relevant parties, to encourage them to make changes to procedures and practices to reduce the risk of preventable death. These recommendations can and do make important contributions to public policy and legislation development, particularly regarding reform processes in such areas as the health system, aged care and disability service providers, policing, corrections, public health and safety as well as human rights concerns such as deaths in custody. ‘The desire to ensure that similar deaths are prevented is a powerful motivating factor for the families of those whose deaths are subject to a public coronial investigation.’<sup>1</sup>

Despite its importance, coronial law and practice is a little understood and under-researched field. Former NSW deputy coroner Hugh Dillon says

‘the jurisdiction is an enigma – a quasi-judicial jurisdiction in which the rules of evidence and procedure do not apply; in which coroners do not adjudicate cases but investigate deaths; a jurisdiction in which there are no parties but many ‘interested parties’; that is inquisitorial but is frequently adversarial in tone and practice but which can also be therapeutic and restorative. It can help to save lives, hold state agencies and agents to account when they are implicated in a death, answer burning questions. And, yet, sometimes be forums of disappointment and anger because it deals literally with life-and-death questions.’<sup>2</sup>

## Limits of current research facilities

Coroners operate within State or Territory jurisdictions and their findings have not been aggregated nationally. There is no national collection of coronial findings. While each state and territory jurisdiction publishes coronial findings on their website, these are not integrated within the broader context of legal information made available online (for example, by AustLII). Also, only a limited number of the responses to recommendations are available online and they are not always specifically linked to the original coronial recommendation.<sup>3</sup> Comparable reports and recommendations across jurisdictions are difficult and time-

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<sup>1</sup> Terry Ryan, Queensland State Coroner, from correspondence with the authors.

<sup>2</sup> Hugh Dillon, former NSW deputy coroner, from correspondence with the authors.

<sup>3</sup> For example, in Victoria, responses are linked to both findings and recommendations. In NSW, recommendations are linked to responses, but not to the original findings <<https://www.justice.nsw.gov.au/lrb/Pages/coronial-recommendations.aspx>>.

consuming to find. Until now, researching Australian coronial law, for academic or professional purposes, has been sub-optimal.

The need for a national facility to remedy this situation was recognised in a number of submissions<sup>4</sup> to a NSW Parliamentary enquiry in 2021, to the effect that having coroners' reports easily accessible on a public database would make sharing seamless between agencies, and that reporting of coronial findings online should be streamlined and standardised across all states and territories.<sup>5</sup>

There is a National Coronial Information System (NCIS)<sup>6</sup> but it is primarily a sophisticated statistical system,<sup>7</sup> and does not provide 'access to coronial documentation, including inquest findings', which it says must (at present) be obtained directly from the relevant coroner's court.<sup>8</sup> NCIS is also not free access, but only accessible to approved organisations and researchers,<sup>9</sup> adding to complexity. It is not integrated with legislation, case law and commentary.

AustLII's Coronial Law Library is intended to remedy the above research deficiencies, and also to complement what the NCIS provides.

### **Building the Australian Coronial Law Library**

In 2020 the free-access AustLII (Australasian Legal Information Institute) system, via its host universities UNSW and UTS, received \$264,925 funding from the Australian Research Data Commons (ARDC) through its 'Public Sector Bridges' program,<sup>10</sup> to provide free access to coronial findings with recommendations available in digital form, from all Australian jurisdictions, in one central location on AustLII. The project also aimed to gather together and link responses made by agencies to coronial recommendations. These resources would then be searchable and cross-indexed to the relevant legislation and case law, using AustLII's LawCite system to track citations. Partners in the project included UNSW (lead institution), UTS and Curtin University. Partner institutions also made investments of \$90,000 in cash and \$163,000 in kind.

AustLII undertook a wide consultative process with all eight coronial courts in each state and territory jurisdiction. Each coronial court supplied AustLII with a copy of all existing findings with recommendations in either an RTF file format (so that they can be made available as HTML files) or as searchable PDF files. AustLII has established databases for

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<sup>4</sup> Submitters included Justice Action and the Aboriginal Legal Service (NSW/ACT)

<sup>5</sup> Paraphrased from submission by Justice Action to the NSW Parliament *Inquiry Into Coronial Jurisdiction In New South Wales*, 2021.

<sup>6</sup> National Coronial Information System (NCIS) <<https://www.ncis.org.au/>>. NCIS was established in 2002 and is currently managed by the Victorian Department of Justice and Community Safety. See a discussion of NCIS in the submission by Justice Action *op cit*, pp. 15-16.

<sup>7</sup> NCIS 'About the Data' <<https://www.ncis.org.au/about-the-data>>.

<sup>8</sup> NCIS 'Request a Report' <<https://www.ncis.org.au/request-a-report>>.

<sup>9</sup> NCIS 'Request Access' <<https://www.ncis.org.au/request-access>>.

<sup>10</sup> <<https://doi.org/10.47486/PS010>>. The ARDC is funded by the National Collaborative Research Infrastructure Strategy (NCRIS).

each coronial court, processed the files, and assigned (in consultation with the courts) a Medium Neutral Citation (MNC) for each database. Each record has relevant metadata which is registered with Research Data Australia, to support wide discovery.

Coronial court officers assisted AustLII staff to locate and secure published responses to recommendations from other government agencies to the extent possible. These are inconsistently presented and difficult to find at State and Territory level. AustLII has processed these responses, created a Responses database for each jurisdiction in a consistent format, and assigned each an MNC and other metadata to enable the linking of the response (if there is one) to the relevant coronial finding and recommendation.

AustLII is seeking to coordinate processes with each coronial court to enable the ongoing regular delivery of findings to AustLII in a more automated and efficient manner as part of the standard operating procedure and workflow process in each jurisdiction.

### **What the new Library provides**

The Australian Coronial Law Library<sup>11</sup> provides an expansive perspective on the coronial function over at least the past twenty years<sup>12</sup> and provides free access to legislation, case law, scholarship and law reform materials relating to coronial law. The Library will be launched on 18 July 2023 by former Australian High Court Justice Virginia Bell AC.<sup>13</sup>

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<sup>11</sup> Australian Coronial Law Library <<http://www.austlii.edu.au/au/special/coronial/>>.

<sup>12</sup> The Northern Territory Coroners Court database goes back to 1979, but others average 20 years duration.

<sup>13</sup> High Court of Australia: Justice Virginia Bell AC <<https://www.hcourt.gov.au/justices/current/justice-bell>>.

The screenshot displays the Australian Coronial Law Library website. At the top, there is a navigation bar with links for About, Contact, Copyright & Usage, Privacy, Disclaimers, Feedback, and Help. A search bar is located below the navigation bar. The main content area is divided into two columns. The left column contains a filter menu with 'Type' set to 'Libraries' and 'Database' set to 'Select a database'. Below this, there are buttons for various Australian states and territories, as well as 'Law Journals' and 'Law Reform'. The 'Commonwealth' section is selected and expanded, showing a list of databases with checkboxes. The right column contains three sections: 'ABOUT THE LIBRARY' with a brief description and a link to AustLII; 'CONTRIBUTORS' with a link to 'Help Support AustLII'; and 'PRINT' with links for 'Print (web view)' and 'Print (eco-friendly)'. Below these are 'TOOLS & GUIDES' with links for 'User Guides', 'LawCite', and 'More'.

The Library consists of 67 databases, made up of 14 coronial databases and 53 virtual databases (of related cases, legislation and articles)<sup>14</sup> and includes 24,570 searchable items. Nearly 10,000 coronial findings, recommendations and responses have been processed and metadata extracted to enable a seamless integration with all other primary legal resources on AustLII (such as other court decisions referring to coronial findings, or legislation implementing them). All findings and responses have been allocated Medium Neutral Citations (MNC), which enables them to be located, linked and referred to in future documents. These resources are now searchable and cross-indexed to the relevant legislation and case law already available on AustLII.

Some examples of searches illustrate the Library's utility:

<sup>14</sup> For virtual databases and libraries, see Greenleaf, Graham 'Subject Libraries in Free Access Law Services' *Festschrift Fur Gerhard Kafer*, R. Helmut, ed., Saarbrucken, 2009 <<https://ssrn.com/abstract=2027849>>.

- ‘Positional asphyxia’ refers to obstruction of breathing as a result of a restraint or restraint technique. A search over the Library for ‘positional asphyxia or restraint asphyxis’ finds 168 documents, including decisions from the Coroner’s Courts of NSW, ACT, NT, QLD, Tas. Vic and WA, and Supreme Court decisions from most of these jurisdictions. The first listed decision is the well-known Inquest into the death of David Dungay.<sup>15</sup> In addition, there are documents from the Coroners Court Responses databases in NSW, Qld, SA and WA, and a Second Reading speech from WA, itemising government responses to recommendations concerning positional asphyxia.
- A search for ‘bus near (crash or accident)’ gives in its top 20 results multiple decisions of coronial inquests in Queensland, Tasmania, the Northern Territory and New South Wales, as well as NSW legislation dealing with coronial investigations.

By Relevance	By Citation Frequency	By Database	By Date	By Title	Show Excerpt
Collapse multi-sections Show all sections					
Brown, Casey Lenard (COR 2016/698) [2021] QldCorC 74 (16 December 2021)					
Coroners Court of Queensland (AustLII)	16 December 2021	70.4 KB	LawCite	*****	Relevance: 100%
PASSENGER TRANSPORT BILL 2014					
New South Wales Bills (AustLII)	1 January 2014	451 KB			Relevance: 54%
Passenger Transport Act 2014 No 46					
New South Wales Acts As Made (AustLII)	no date	229 KB			Relevance: 35%
FRANKLIN, Judith Ann [2002] TASCDC 298 (17 May 2002)					
Magistrates Court of Tasmania - Coronial Division (AustLII)	17 May 2002	38.2 KB	LawCite	*****	Relevance: 35%
MEREDITH, Henry Alfred [2002] TASCDC 297 (9 April 2002)					
Magistrates Court of Tasmania - Coronial Division (AustLII)	9 April 2002	38.2 KB	LawCite	*****	Relevance: 35%
MacPHERSON, George Mackay [2002] TASCDC 296 (17 May 2002)					
Magistrates Court of Tasmania - Coronial Division (AustLII)	17 May 2002	38.2 KB	LawCite	*****	Relevance: 35%
MacPHERSON, Yvonne [2002] TASCDC 295 (17 May 2002)					
Magistrates Court of Tasmania - Coronial Division (AustLII)	17 May 2002	38.3 KB	LawCite	*****	Relevance: 34%
Passenger Transport Act 2014 No 46					
New South Wales Acts As Made (AustLII)	1 January 2014	278 KB			Relevance: 33%
Brown, Casey Lenard (COR 2016/698), Responses [2021] QldCorCResp 7 (16 December 2021)					
Coroners Court of Queensland - Responses (AustLII)	16 December 2021	2.36 KB	LawCite	*****	Relevance: 24%

- A search for ‘thredbo near (disaster or inquest)’ finds the NSW Coroner’s Court report, plus various court decisions and journal articles referring to it.
- A search for ‘“Kum\* Walker” ’ finds three decisions of Northern Territory courts dealing with the inquest into the death of Kumanjayi Walker (allowing for varying spellings), as well another NT case, and a journal article discussing these decisions.

The Library can also provide more information about known inquests than would otherwise be available, via the Responses databases:

- In *Hunt*<sup>16</sup> the coroner recommended to the NSW Commissioner of Police that the Missing Persons Registry be directed to liaise with the State Coordination Unit to consider and implement a protocol whereby the information available in support of an

<sup>15</sup> *Dungay* (2015/381722) [2019] NSWCorC 75 (22 November 2019)

<sup>16</sup> *Inquest into the death of Thomas HUNT* (2017/102894) [2020] NSWCorC 54 <<http://www.austlii.edu.au/cases/nsw/NSWCorC/2020/54.html>>.

application to the State Coordination Unit to access the location of a mobile telephone device under s 287 of the *Telecommunications Act 1997* be recorded and the reasons for that application decision be recorded. A ‘Noteup’ from this finding locates the response from the NSW Commissioner of Police. In the Responses database, it shows<sup>17</sup> that Commonwealth legislation was subsequently amended and the Explanatory Memoranda mentions the coroner’s recommendation.<sup>18</sup> This can be seen from the link to s 287 in the Responses database, and a ‘Noteup’ from s 287 will also find these connections.

- In *Ken*<sup>19</sup> the coroner made recommendations directed to a number of South Australian government departments and agencies including a review of the *Mental Health Act 2009* (SA) relating to “the imposition of inpatient treatment orders on persons in DCS custody”.<sup>20</sup> A ‘Noteup’ from this finding lists the responses from two of these agencies: SA Health<sup>21</sup> and the Department for Correctional Services (DCS)<sup>22</sup>.

Through such uses of the Responses databases, ‘the Library will enable researchers to assess the effectiveness of coronial recommendations ... what works and what doesn’t and [with] what impact’,<sup>23</sup> and ‘has the potential... to improve the quality of coronial recommendations and responses’.<sup>24</sup>

## Conclusions

The intersection of the inquisitorial fact-finding coronial process with the broader justice function of courts, and the responses of the legislative system, form a vital part of the legal system. Providing easy free access to coronial findings and recommendations will assist legal practitioners, courts, tribunals and researchers to carry out their functions in other levels of the justice system.

The Australian Coronial Law Library is at <<http://www.austlii.edu.au/au/special/coronial/>>.

18 July 2023

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<sup>17</sup> *HUNT, Thomas James* (2017/102894) - Responses [2020] NSWCorCResp 16 <<http://www.austlii.edu.au/au/other/nsw/NWCorCResp/2020/16.html>>.

<sup>18</sup> <[http://www.austlii.edu.au/au/legis/cth/bill\\_em/tladniaomb20221004/memo\\_0.html](http://www.austlii.edu.au/au/legis/cth/bill_em/tladniaomb20221004/memo_0.html)>.

<sup>19</sup> *KEN, Kenneth Ngalatji - Inquest Number 27/2018* (0648/2015) [2020] SACorC 69 <<http://www.austlii.edu.au/au/cases/sa/SACorC/2020/69.html>>.

<sup>20</sup> *Ibid.*

<sup>21</sup> *KEN, Kenneth Ngalatji - Inquest Number 27/2018* (0648/2015), Responses [2020] SACorCResp 3 <<http://www.austlii.edu.au/au/other/sa/SACorCResp/2020/3.html>>.

<sup>22</sup> *KEN, Kenneth Ngalatji - Inquest Number 27/2018* (0648/2015), Responses [2020] SACorCResp 4 <<http://www.austlii.edu.au/au/other/sa/SACorCResp/2020/4.html>>.

<sup>23</sup> Former NSW Deputy Coroner Hugh Dillon *op cit.*

<sup>24</sup> Terry Ryan, Queensland State Coroner, *op cit.*