

# Coroners Court of Victoria

☐ Public

Practice Direction 1 of 2014

Access to documents provided to senior next of kin  
pursuant to section 115 of the *Coroners Act 2008*

## Background

1. This practice direction is made pursuant to section 107 of the *Coroners Act 2008* (the Act) and is issued to ensure the provision of coronial documents to senior next of kin is done in an ordered, controlled and protected manner.
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

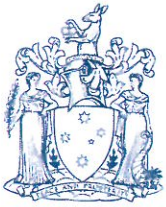
3. Coronial brief means the brief of evidence compiled by the coroner's investigator and may include an inquest brief as defined in section 115(7) of the Act.
4. Coroner's investigator means a member or members of the police force nominated by the Chief Commissioner of Police or any other person nominated by the coroner to assist them 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.<sup>1</sup>
5. Document<sup>2</sup> means any record of information, and includes—
  - (a) anything on which there is writing; or
  - (b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; or
  - (c) anything from which sounds, images or writings can be reproduced with or without the aid of anything else; or
  - (d) a map, plan, drawing or photograph;

*Note* - A document includes a reference to—

- (a) any part of the document; or
- (b) any copy, reproduction or duplicate of the document or of any part of the document; or
- (c) any part of such a copy, reproduction or duplicate.

<sup>1</sup> Previously referred to as an investigating member.

<sup>2</sup> *Evidence Act 2008* (Vic).



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6. Inquest brief means a brief of evidence that is prepared for an inquest and contains the following (if available)—
- (a) a statement of identification by an appropriate person;
  - (b) any reports given to a coroner as a result of a medical examination;
  - (c) reports and statements that the coroner investigating the death or fire believes are relevant to an inquest;
  - (d) other evidentiary material that the coroner investigating the death or fire believes is relevant to the inquest;
  - (e) any material prescribed by the rules or the regulations.

An inquest brief does not include any part of a medical file that the coroner considers to be irrelevant to the inquest.

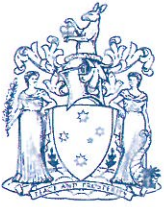
7. Senior next of kin in relation to a deceased person, means—
- (a) if the person immediately before death had a spouse or domestic partner—the spouse or domestic partner; or
  - (b) if the person immediately before death did not have a spouse or domestic partner or if the spouse or domestic partner is not available—a son or daughter of or over the age of 18 years; or
  - (c) if a spouse, domestic partner, son or daughter is not available—a parent; or
  - (d) if a spouse, domestic partner, son, daughter or parent is not available—a sibling who is of or over the age of 18 years; or
  - (e) if a spouse, domestic partner, son, daughter, parent or sibling is not available—a person named in the will as an executor; or
  - (f) if a spouse, domestic partner, son, daughter, parent, sibling or executor is not available—a person who, immediately before the death, was a personal representative of the deceased;
  - (g) if a spouse, domestic partner, son, daughter, parent, sibling, executor or personal representative is not available—a person determined to be the senior next of kin under subsection 3(3) of the Act.

### Medical Examination Report

8. The principal registrar, unless the coroner otherwise orders, must provide the senior next of kin of a deceased person with any reports given to the coroner as a result of a medical examination performed on the deceased.<sup>3</sup>

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<sup>3</sup> *Coroners Act 2008* (Vic) s 115(1)(a).



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### Release of documents, other than the medical examination report, to the senior next of kin

9. On the directions of a coroner, the principal registrar may release any other document, other than the medical examination report, to the senior next of kin.
10. The coroner may order that the senior next of kin not be provided certain document(s) or direct the method, time, and place of release of certain document(s) and by whom.

### Release of documents where there is no inquest

11. The coroner may also release document(s) pursuant to section 115(2) of the Act.

### Conditions on release of documents

12. The coroner may impose conditions on the release of any document.
13. Unless otherwise ordered by the coroner, document(s) provided to the senior next of kin pursuant to section 115 of the Act shall be accompanied by a copy of a notice in the form of Attachment A.
14. A person who fails to comply with any condition placed on the release of a document, knowingly or recklessly, commits a summary offence pursuant to sections 115(4) and 115(5) or 103 of the Act.

### Fees for documents

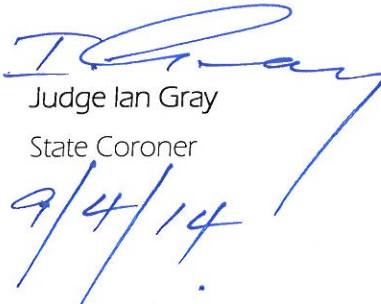
15. Senior next of kin will not be required to pay a fee for any documents.

### Revocation of previous Practice Directions

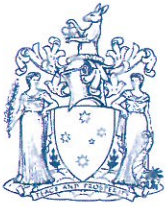
16. Practice Direction No 1 of 2013 is rescinded.

### Commencement

17. This Practice Direction takes effect immediately and retrospectively.

  
Judge Ian Gray  
State Coroner  
9/4/14





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Attachment A

Publication or dissemination of document(s) under Section 115 of the *Coroners Act 2008*

As the senior next of kin, you have been provided with the enclosed document(s) under section 115 of the *Coroners Act 2008*.

The enclosed document(s) has/have been provided to you following your application and pursuant to the direction of the coroner. The document(s) form part of an open coronial investigation.

The coroner has directed, as a condition of the provision of the document(s), that you are not permitted to provide copies of or publish any document, or part thereof, to any other person or persons or entity unless for the purpose of obtaining medical or legal advice or opinion (non publication condition).

It is your responsibility to store the documents in a secure location. You are permitted to store the documents electronically provided you ensure there is adequate security and controlled access to the documents and you comply with the non-publication condition imposed by the coroner.

If you wish to use the document(s) for any other purpose other than for obtaining medical or legal advice, you must first seek permission from the coroner.

The following further conditions are imposed (delete if not applicable):

- 1.
- 2.
- 3.

Failure to comply with the above condition is subject to:

- (i) 60 penalty units under section 115(3) and (4) of the *Coroners Act 2008*, and/or
- (ii) Contempt under section 103 of the *Coroners Act 2008*