

**SUBMISSION BY THE STATE CORONER ON BEHALF OF THE CORONER'S COURT OF
WESTERN AUSTRALIA:
INQUIRY INTO THE ARRANGEMENTS SURROUNDING CRIMES COMMITTED AT SEA**

This submission relates to (b) of the Terms of Reference :

(b) Examine the cross jurisdictional issues that face the States, Territories and the Commonwealth, including the overlap of various coronial jurisdictions.

It is noted that the above results from recommendations made by the New South Wales Coroner, Magistrate Jacqueline M Milledge, (former Senior Deputy State Coroner) in the inquest into the death of Dianne Brimble in respect of which reasons were delivered on 3 December 2010.

Particularly relevant in that context was a recommendation that the Commonwealth Attorney General establish a Federal Coronial Jurisdiction and that a Federal Court Judge should be appointed as the Federal Coroner.

This recommendation is not supported.

It is noted that in the Australian Government (the government) response to the recommendations the government did not agree with this recommendation either.

In that response paper the government advised that it did not consider that there was a demonstrated need for a Federal Coronial Jurisdiction at this time, due to the collaborative arrangements currently in place to facilitate a cross-jurisdictional approach.

It was also noted in the response that collaboration amongst State and Territory coroners is well developed and it was noted that State and Territory coroners collaborated in the past in conducting inquests.

This is to advise that I agree with the above submission and note that in the 16 years during which I have been State Coroner I cannot recall a single case where there have been problems as a result of overlap of coronial jurisdictions which could not be resolved quickly over the telephone.

In addition in this context it should be recognised that for there to be a Federal Coronial Jurisdiction there would need to be a great deal more than just a Federal Coroner. A coronial system, while headed by

coroners, is a complex system which requires involvement of a number of different agencies and organisations.

In particular it should be noted that a coronial system requires:

- Forensic pathologists to conduct post mortem examinations;
- experts to conduct toxicology;
- arrangements in place in relation to body removals;
- grief counsellors; and
- office support for managing body movements, taking reports of deaths and the conducting of any inquests etc.

The provision of these resources would present considerable practical problems and would be very costly.

In addition, in my view, establishment of a Federal Coronial Jurisdiction would add to the complexity of the situation and cause potential jurisdiction problems.

In my view, therefore, the proposal is not agreed with because:

1. There is no demonstrated need.
2. The proposal would require provision of significant additional resources, such as forensic pathologists, and would generally be impractical.
3. Adding another coronial jurisdiction would significantly increase the complexity of cross jurisdictional approach to matters and could result in different standards being applied in the same location.

While the recommendation is not supported, in my view the Committee could helpfully address two issues, resolution of which would be of assistance in cases where there is Commonwealth and State involvement in coronial matters.

DIRECTIONS BY CORONERS TO THE AFP

While coroners in the various States and Territories generally have the power to give directions to police investigators (in Western Australia that power is to be found in section 14 of the *Coroners Act 1996*) in cases where the Australian Federal Police (AFP) is to conduct investigations coroners do not have a similar power to give directions.

In my view in cases where the AFP is conducting an investigation on behalf of a State Coroner, there should be a provision which would enable a coroner to give a direction to officers acting as coroner's

investigators to ensure that adequate investigations are conducted and important issues are adequately addressed.

ARRANGEMENTS IN RELATION TO COSTS

In cases where there is Commonwealth involvement, such as deaths of asylum seekers whose bodies have been taken to Christmas Island and then to Western Australia, while appropriate costing decisions have eventually been made, there do not appear to be appropriate arrangements in place on an ongoing basis which would establish which costs are to be borne by the Commonwealth and which costs are to be borne by the State.

This is particularly important because, particularly following multiple deaths, decisions need to be made within a short timeframe to enable burials to take place and to ensure that appropriate investigations are commenced in a timely manner. Often at that time it is unclear whether the costs will be met by the Commonwealth or the State, or be shared between the two.

It is important for the Commonwealth and States to come to clear agreements in respect of costing so that urgent decisions can be made with confidence that any resulting costs will be met in a timely fashion by an appropriate organisation.



AN HOPE
STATE CORONER