Taking the mystery out

WORKING IN THE CORONERS COURT MAY BE UNFAMILIAR TO MANY LAWYERS BUT IT BRINGS WITH IT ITS OWN CHALLENGES AND REWARDS.

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The work of the Coroners Court is distinct from other court proceedings. It involves life and death, real people and families who have lost loved ones unexpectedly, often in tragic circumstances – just like the Supreme and County Court. But it is not soncerned with determining guilt.

The average young lawyer may know something about coronial inquests from what they have read in newspapers, but what do coroners really do and how does their work impact upon the rest of us?

The Coroners Court of Victoria is tasked with investigating "reportable deaths" for the purpose of determining, where possible, the identity of the deceased, the medical cause of the death and the circumstances surrounding it.

The coroner predominantly investigates deaths that appear to have been unexpected, unnatural or violent, or those that have resulted from an accident or injury. "Reportable deaths" also include deaths that have occurred as a result of medical procedures, suicide or while a person was in police custody or under the care of the state.

To find out what happens inside the Coroners Court, the *YLJ* conducted separate interviews with Coroner Paresa Spanos and Jacqui Hawkins, a partner at Lander & Rogers specialising in occupational health and safety.

In addition to investigating deaths, Ms Spanos is responsible for making recommendations about public health, safety and the administration of justice to help avoid preventable deaths from occurring.

With a strong background in criminal law and work with the Director of Public Prosecutions, Ms Spanos was appointed from the magistracy in 2005. Since that time, she has investigated hundreds of reportable deaths and delivered many important findings.

Ms Spanos recently found that the death of 27-year-old Lauren James, who died as a result of post-operative complications arising out of a liposuction procedure, could have been prevented. She also heard an inquest into the 2006 bus crash in Egypt that killed six Australian tourists, and another in which she investigated the deaths of two young men, both engaged to be married, who were killed after a drug-affected driver collided head-on with their vehicle while they were driving to work.

Often sitting on the other side of the bench to the coroner is Ms Hawkins. She has extensive experience in criminal law and in representing the interests of senior police officers, government departments and employers in the coronial context. Ms Hawkins has been involved in a range of inquests over the years, including those involving police pursuits and shootings, deaths at level crossings and suicides.

Both Ms Spanos and Ms Hawkins find coronial work fascinating because it brings to light interesting subject matter and a diverse range of scenarios. Ms Spanos enjoys the intellectual challenge of the investigation.

"Issues can arise during the course of an inquest 'from left field'. There are often new, unexpected facts to be uncovered which change the course of the inquiry," she said.

Adds Ms Hawkins: "Every case is different. Every case has a twist to it and you have to work through exactly what happened and all the issues in order to get to the truth of it."

Although there is a common misconception that finding fault forms part of the coronial process, Ms Spanos said that a coroner was prevented from making findings of guilt or criminal liability. Instead, coroners have an inquisitorial role and are driven by a search for the truth, rather than adjudicating between two adversaries.

They actively participate in the investigation, determining key lines of inquiry and asking their own questions of the parties. The Court waits for criminal proceedings to conclude before an inquest commences.

One of the main aims of the coronial process is to identify shortcomings or potential dangers in areas such as policing, health care and public safety, and to bring about systemic change. The coroner's task is to look at the potential broader implications surrounding a death in order to make findings and recommendations likely to impact upon the community.

"The coroner's focus is on prevention: investigating the circumstances to determine whether similar deaths could be avoided in the future," Ms Spanos said.

Ms Hawkins has seen coronial findings significantly influence the development of Victoria Police policies. Coronial inquests into police shootings have led to examinations of what constitutes "reasonable use of force" in policing. Inquests concerning deaths arising out of police pursuits have led to clearer policies on which circumstances should trigger a pursuit and the point at which police should "back off and call it off" because the situation has become too dangerous.

However, not all coronial findings result in immediate change.

# of unexpected deaths

CAM WARD

BALANCING ACT: Coroner Paresa Spanos says that delivering her findings can sometimes be difficult when a family is "hanging onto your every word".

Coroners may make recommendations to any Minister, statutory authority or entity, but have no legal power to enforce them. The death of four-year-old Darcey Freeman, who was thrown off the West Gate Bridge in 2009, serves as an example.

Darcey's death occurred despite coronial recommendations some five years earlier calling for safety barriers to be erected on the bridge. Barriers have since been erected.

Inquests are a difficult experience for families who have lost loved ones, but can also be a cathartic process. "Generally the family just wants answers and to be able to live peacefully with the knowledge of what happened," Ms Hawkins said.

Ms Spanos said the interests of the families involved must be handled delicately because often "it is still very raw".

"Delivering your findings in court at the conclusion of an inquest is a very emotionally loaded situation," she said. "Often the family is hanging on to your every word and you must be sensitive to that."

Both Ms Spanos and Ms Hawkins recognise absolute conclusions about the circumstances surrounding a person's death cannot always be reached, particularly where there is an absence of eye witnesses. Ms Hawkins said that never knowing what happened was distressing for some families.

Given the sometimes confronting subject matter uncovered during the course of an inquest, Ms Spanos said it was essential to remain professional, but there were still cases that "do get in under your radar". Ms Hawkins said coronial work taught her "to steel yourself against the issues".

"If you're seeing photos of dead people, for example, you disassociate yourself. You do become a bit de-sensitised over time," she said. "You need to do that to be able to do the work independently and impartially."

Despite the challenges of working in this area, both women find the work stimulating and rewarding. For young lawyers interested in coronial work, Ms Spanos said that pursuing a career in criminal law or working for law firms acting for government bodies and insurers was a good place to start. ●

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