



NEW SOUTH WALES STATE CORONER

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House of Representatives Standing Committee on Social Policy and Legal Affairs
Dr Anna Dacre
Committee Secretary

BRIEF SUBMISSION TO THE INQUIRY INTO THE ARRANGEMENTS SURROUNDING CRIMES AT SEA

From Magistrate Mary Jerram, State Coroner New South Wales.

Dear Dr Dacre and Committee members,

As is self-evident, this submission refers to (b) of the Committee's terms of reference as stated in its invitation to submit, as my interest as State Coroner is specifically in the coronial area. That term of reference refers to "cross jurisdictional issues...including the overlap of various coronial jurisdictions".

I have been State Coroner for New South Wales for six years, and have never once in that time incurred a problem with cross jurisdictional issues. I am confident that my colleagues in other States and Territories will concur.

The combined effect of ss. 18 and 102 of the NSW Coroners Act 2009 are sufficient to overcome any queries arising regarding jurisdiction

18 Jurisdiction concerning death requires connection with the State (cf *Coroners Act 1980*, s 13C)

(1) A coroner does not have jurisdiction to hold an inquest concerning a death or suspected death unless it appears to the coroner that:

- (a) the remains of the person are in the State, or
- (b) the death or suspected death or the cause of the death or of the suspected death occurred in the State, or
- (c) the death or suspected death occurred outside the State but the person had a sufficient connection with the State, as referred to in subsection (2).

(2) A person had a sufficient connection with the State if the person:

- (a) was ordinarily resident in the State when the death or suspected death occurred, or
- (b) was, when the death or suspected death occurred, in the course of a journey to or from some place in the State, or
- (c) was last at some place in the State before the circumstances of his or her death or suspected death arose.

102 Assistance to and from coroners in other jurisdictions

(cf Coroners Act 1980, s 54A)

(1) The State Coroner may request in writing that the person holding a corresponding office in another State or a Territory provide assistance in connection with the exercise by the State Coroner or another coroner of any power under this Act.

(2) The State Coroner, at the written request of the person holding a corresponding office in another State or a Territory, may provide assistance to that person or a coroner of that State or Territory in connection with the exercise of a power under the law of that State or Territory.

(3) For the purpose of providing assistance, the State Coroner or a coroner may exercise any of his or her powers under this Act irrespective of whether he or she would, apart from this section, have authority to exercise that power.

Note. The State Coroner has, in addition to all the powers of a coroner, a general function of overseeing and coordinating coronial services and ensuring that inquests and other investigations are held. The assistance provided may involve the exercise of administrative powers by the State Coroner or the exercise by him or her or another coroner of coronial powers.

(4) For the purposes of this section, this Act applies as if the matter that is the subject of the request or direction were the subject of an investigation under this Act.

In particular, s 18 (2) or it's earlier equivalent, s13 of Coroner's Act 1980 has provided the basis for several inquests held in this State, including the deaths of Diane Brimble, Bryan Peters the journalist who died in East Timor, Jake Kovco the soldier who died in Iraq , Witton who disappeared from a yacht near Pitcairn Island, Raul Roldon who drowned on a Phillipine island) and two inquests into four deaths at Villawood, the federal Immigration Detention Centre.

I cite the above cases as merely some deaths out of Australia or New South Wales investigated or inquested in recent years by the New South Wales Coroners Court. In each, no problem ever arose re jurisdiction, nor was that jurisdiction questioned by any party, apart from, on one occasion only, the Coroner's right under s 82 of the Act to make recommendations to a federal Minister, which is overcome in my view by the participation of a federal department in an inquest.

Section 102 has always allowed the State Coroner merely to phone her/his counterpart in another State and resolve which jurisdiction will take responsibility where there is a cross over, for example a police chase beginning in one State and ending with a death in another.

I am aware that Recommendations were made by a former Coroner after the inquest in to the death of Diane Brimble, that consideration should be given to the appointment of a Federal or Commonwealth Coroner. Given that no successful challenge was made to the jurisdiction of this Court in that inquest, it is difficult to comprehend why that Recommendation was made. In any case, I and all current full time Coroners in New South Wales are in agreement that there is no such need.

The Chief Executive Officer of my Court will attend your hearing to answer any further questions which you may have.

My apologies for being unable to attend as I am already committed for that day.



Magistrate Mary Jerram
State Coroner New South Wales

February 1, 2013
Chambers, Glebe