

## Coroner's process

This chapter has information that will help you understand the Coroner's process during this time of grief and loss. Some of this information may be distressing for you to read. Make sure you have the support you need. Information on where you can get help and support is listed at the end of this Handbook.

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### What is the role of the State Coroner?

The Coroner's role is to investigate the deaths due to the bushfires. This is a complicated process that can take time.

The Coroner's Office works with Victoria Police and the Victorian Institute of Forensic Medicine to help investigate as quickly as possible.

The Coroner has a responsibility to investigate 'reportable' deaths. A reportable death is a sudden and unexpected death. The Coroner tries to make a decision about:

- the identity of the deceased
- how death happened
- the cause of death
- the details needed to register the death.

Because many people died in the bushfires, a process called Disaster Victim Identification (DVI) is needed to identify each person. **See** the upcoming section 'What is the Disaster Victim Identification (DVI) process?'

### What is an inquest?

An inquest is a public hearing that is run by a Coroner. An inquest is not like a court trial. It runs in a more informal way than other court hearings. The Coroner does not have to follow normal courtroom rules about evidence and is allowed to explore more issues. The Coroner may hear from anyone who has information about the death.

An inquest is held after a small number of investigations by the Coroner. There is always an inquest, for example, where the person's identity is not known. There may be an inquest in other cases if the Coroner

believes it is necessary, such as when the death involves an issue of public importance. If the Coroner is allowed to conduct an inquest under the law, it is their decision whether this happens. You can, however, make a request that an inquest be held if the Coroner has the power to do so.

### **Why does the Coroner hold an inquest?**

The Coroner may be holding inquests into the February 2009 Victorian bushfires. The Coroner is interested in finding out what can be learnt from a death and the issues surrounding the death. For example, the Coroner might make recommendations about public safety. It is not the Coroner's job to see if a crime has been committed or to find a person guilty of that crime. In the case of the Victorian bushfires, it is the police's job to investigate any alleged crimes of arson (lighting fires).

### **Can I be involved in the inquest process?**

The family of the deceased person can appear as a party to the inquest. You can make submissions, cross-examine witnesses and ask the Coroner to explore certain issues. You may be asked to give or get evidence. You can also have your say to the Coroner directly or by making a statement to the Coroner through the Coroner's Assistant or your lawyer.

You do not have to use a lawyer at the inquest but you can be represented by one if you choose to do so.

### **What is the role of Victoria Police?**

The police look after three things:

- the emergency response
- the DVI process
- the criminal investigation into the fires.

A special police unit called Taskforce Phoenix was set up to investigate the reasons for why the February 2009 Victorian bushfires happened. As well as the criminal investigation, the police also report to the Coroner's Office.

The DVI process is separate to the criminal investigation. It is part of the investigation by the police for the Coroner. The Victorian DVI process is the same process that is used around the world and is based on what Interpol (international police) do.

### **What is the role of the Victorian Institute of Forensic Medicine?**

Experts at the Victorian Institute of Forensic Medicine are also involved in the DVI process. They are trained and experienced in human identification techniques. The Victorian Institute of Forensic Medicine's process includes several things, as outlined below.

### **Examination at the mortuary**

The mortuary is where each bushfire victim is examined as soon as possible after admission. The examinations include photography, radiography (using a CT scanner), fingerprinting (if possible), autopsy (where needed), and anthropological and dental assessments.

### **Forensic pathology**

These doctors carry out the physical examination of each victim to help decide medical features that can help with identification. These include previous surgery, current diseases, medical prosthetics and implants. The pathologist also tells the Coroner about the probable cause of death.

### Forensic anthropology

These scientists specialise in the examination of skeletal remains. They examine and decide such things as the victim's sex, race, build and age.

### Forensic odontology

Forensic dentists are involved in the identification process where the effects of the bushfire make visual identification impossible. They compare old dental records with dental remains.

### Forensic toxicology

Toxicologists and pharmacologists examine autopsy specimens to look for medicines and drugs, including toxins produced in the bushfires. If the victim was taking a prescribed medicine, for example, this may help identify them.

### DNA

Where possible, samples taken in the mortuary are used to get DNA. The police collect DNA samples (through mouth swabs) from close relatives of those who died. These samples are analysed by the scientists in Victorian Institute of Forensic Medicine's DNA laboratory and, where possible, compared with DNA from the deceased.

### How is the Coroner's work different from the Victorian Bushfires Royal Commission?

The Coroner's main role is to make sure that victims of the bushfires are properly identified and to investigate the cause and circumstances of all bushfire deaths. The Royal Commission's role is to examine the cause of and response to the bushfires themselves.

The Coroner's work on identifying victims should not be affected by the Royal Commission. However, if the Coroner is required to investigate a death from the Victorian bushfires, this investigation may not happen until the Royal Commission has finished.

The Royal Commission will communicate with the Coroner (and other authorities such as the police), so that the Commission's activities do not interfere with the Coroner's, and other organisation's work. For more information on the Royal Commission, [see](#) the 'Victorian Bushfires Royal Commission' chapter.

### What is the Disaster Victim Identification (DVI) process?

There is a range of ways a deceased person can be identified. This includes where a deceased person is able to be viewed by a close relative or friend, called 'visual identification'. Identification can also happen using science or by looking at the evidence to do with the deceased and their death ('circumstantial evidence'). A combination of these methods may be used.

Circumstantial evidence cannot identify the deceased person on its own. It might include evidence such as where the deceased was found or which items of property were found with the deceased. In some cases strong circumstantial evidence can be used with some scientific evidence to definitely identify a bushfire victim.

Because of the conditions of the bushfire, visual identification may not always be possible. Where there have been many deceased, the DVI process is used to accurately identify victims to the Coroner's standards.

Usually, the DVI process requires that identifications be carried out by scientific means wherever possible. This may include the following procedures

- dental examination
- medical examination (including examination of medical records)
- DNA examination
- fingerprint examination.

The results of these examinations are compared with information about each person's life. Families are talked with throughout the DVI process. Police investigators speak with families and next of kin to assist in the final identification. This process can take some time. It is very important that identification be accurate and meet both legal and community needs.

### **What does the DVI process involve?**

#### **Stage one: At the scene of the bushfires**

The DVI process begins with police officers gathering forensic and circumstantial evidence and recovering the remains of people who have died in the bushfires. Forensic pathologists (who are doctors) and other specialists may also be involved.

#### **Stage two: Victorian Coronial Services Centre**

The Victorian Coronial Services Centre houses the Coroner's Office and the Victorian Institute of Forensic Medicine. It also houses the police DVI team. The Victorian Institute of Forensic Medicine includes the mortuary.

On behalf of the Coroner, the Victorian Institute of Forensic Medicine carries out the mortuary and medical procedures including:

- photography
- radiography using a CT scanner
- fingerprinting if it is possible
- an autopsy if needed
- skeletal and dental assessments.

Samples taken at this stage are used to get DNA, if possible.

#### **Stage three: Gathering information about people from family and friends**

An important part of identification is getting detailed information about the people who have died. This includes things such as a person's build, hair and eye colour, scars, tattoos, clothes and jewellery.

Investigators also asked about people's medical and dental histories. If possible, a DNA sample was also collected.

This process was carried out by police detectives. In most cases, police worked together with a counsellor from the Coroner's Office.

### **Stage four: Comparing scientific information with personal details**

Investigators match the information received from stages two and three to try to make a definite identification. They then present this evidence to the Identification Board. The board is responsible for the final identification of each person that died in the bushfires. It includes the most experienced identification experts involved in the DVI process. The final identification and release of bushfire victims is made by the Coroner. This process is called reconciliation.

Stage four is very important to the identification process. It is time-consuming and complicated. A strict process must be used to avoid making a mistake about a deceased person's identity. Not to do so may inflict more trauma on families.

Reconciliation may take months to complete. It depends on the number of people who have died in the bushfires and how hard it is to get scientific information.

More information about the DVI process can be found at [www.coronerscourt.vic.gov.au](http://www.coronerscourt.vic.gov.au) (click on 'Bushfires assistance' and click on the related page 'Victorian Bushfires - Information on the Disaster Victim Identification (DVI) Process').

### **Questions I have about my family members**

#### **What happened to my family member during this time?**

People who died in the bushfires stayed at the mortuary until their identification was complete and their release was authorised by the Coroner. They were then released to a funeral director of their family's choosing.

#### **Can I disagree about an autopsy being held?**

You do have rights to 'object' (disagree) with an autopsy being held. It is important that you get legal advice if you wish to do this.

#### **Is it possible that my family member will not be identified through this process?**

Sadly, this is possible given the intensity of the fires. In this case, the Coroner holds an inquest to determine if there is any more from the coronial process and police investigations that could help identify a victim.

#### **What happened to personal property collected for identification purposes?**

Personal property may have been used to help in the identification of bushfire victims. The Coroner's Office might have needed to hold onto some items until any inquest was over. Any property found with a deceased person was recorded, cleaned and photographed.

The Coroner's Office will have told the person's closest relatives or friends about personal property that was being held and when it could be returned. Returning the property may take some time if it needs to be held for identification, evidence or coronial processes. Due to the fires, some items of property may not be in their original condition.

### Who was looking after the people who died in the bushfires?

People who died in the bushfires were held in the care of the Victorian Coronial Services Centre at Southbank. Each person was handled individually with care and respect, and kept separately and securely throughout the coronial process.

### Will I be able to find out what happened to our family member and how they died?

The medical and scientific examinations of people who died in the bushfires will be focused mainly on identifying the person. In some cases, it may be possible to give further information about what has happened. For example, any member of the deceased's family, their doctor or their lawyer can request a copy of the report of the medical and scientific examinations. These reports use technical language so it may be helpful for a doctor to explain what the report means.

Wherever possible, the Coroner's Office will try to give the information you have requested in writing. You can request information by writing to:

The Registry

State Coroner's Office

57-83 Kavanagh Street

Southbank VIC 3006

### How do I get a death certificate?

A death certificate can be given by the Registry of Births, Deaths and Marriages. The Registry can do this when the Coroner has decided a person's identity and cause of death. A funeral director must give the death notification to the Registry for a death certificate to be issued.

In many cases it may take many months to confirm the identity of bushfire victims and decide the cause of death. For more information about death certificates visit the Registry of Births, Deaths and Marriages website at [www.bdm.vic.gov.au](http://www.bdm.vic.gov.au)

### It took a while after I saw the DVI detectives to hear back from the Coroner's office. Why was this?

Although the DVI teams asked specific questions about your family member, it may not have been possible to confirm whether your loved one was at the Victorian Coronial Services Centre or not. The lists of names and photos of people that were in the newspapers were those who were believed to have died. That does not mean they were among the deceased people who are now at the Victorian Coronial Services Centre.

The information collected by the DVI teams about a person's life was given to the doctors and scientists. Their job was to examine the bushfire victims for information that may help identify them. These two sets of information were matched together in the hope of providing a positive identification.

### I was told my family member looked fine. Why couldn't they be identified straight away?

Because of the size of this tragedy, the Coroner decided to use the DVI protocol as soon as it became known that a large number of people had died. This meant that a scientific identification was used as well as looking at the circumstances in which each person died. Scientific identification means that where possible a deceased person was matched to their dental and medical records or fingerprints or a DNA match.

In some cases, this took months. But it was very important to do this to avoid a mistaken identification and the further heartbreak this would cause a family.

### **My family member was found in our (or their) home. Why can't they be identified by that?**

Knowing where a person died is an important piece of information that is sometimes helpful in their identification. However, because the bushfires moved so quickly, people ran into other people's homes or jumped into stranger's cars to flee the bushfire. It would be too risky to use only where the person was found to identify them.

### **How is it decided which families get their loved one's first?**

According to the DVI protocol, in the case of a disaster where all of the deceased are found in one area, the victims of the disaster must be identified before anyone will be released. This would happen for example, after a plane accident.

What happened in the February 2009 Victorian bushfires was different. There were a number of fires and the areas where the fires happened were very widespread. The Coroner took this into account. The Coroner decided that those people that were most easily identified could be released first. This happened ahead of those people whose identification was more complicated.

### **I lost a number of family members during the bushfires. How was the order of their release decided?**

This depended upon on how easy it was to identify each of your family members. For example, the scientific experts may not have been able to get a DNA sample from all of your family members. Or there may have been a dental match for one family member but not another. If this was the case, one may have been identified and authorised for release before your other family members.

### **We believe our family member was not badly burnt. Can we see them?**

You should speak to your funeral director about this. Because of the identification process no one was able to come to the Victorian Coronial Services Centre to view their loved ones. Your funeral director can give you advice about whether or not you should see your loved one following their identification and release.

### **What about the family pet that died with my family member?**

If your pet's remains were collected and brought to the Victorian Coronial Services Centre at the same time as your family member, that information was passed on to the Coroner who was deciding identification. Your family will have been asked if you would like your pet's remains to be released with your family member or, if not, what you would like done with your pet's remains.

### **Can I get my partner's wedding ring back?**

If a wedding ring was found on your partner's finger it will be returned as soon as possible. However, it might be needed for evidence. The Coroner's Office will let you know if it needs it for this.

Due to the extreme heat conditions of the fire, some jewellery may not be returned in the same condition.

### **One of my family members died in the bushfires but another survived but then died in hospital. How come we can have one funeral but not the other?**

Unfortunately, these deaths need two different identification processes. The family member who died in the bushfires is part of the DVI process. They must be identified through the DVI process. Your other family member survived the bushfires and was able to be identified in hospital when they were still alive. In this second case, the normal process of identification applies, not the DVI process.

### **I have concerns about the response I got from the Coroner's Office. Who can I contact about this?**

You can put your concerns in writing to the Coroner herself. She can be contacted at:

Judge Jennifer Coate

57-83 Kavanagh Street

Southbank VIC 3006

### **Other useful Handbook chapters**

**See** 'Victorian Bushfires Royal Commission' and 'Wills and estates'.

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#### **DISCLAIMER**

The information contained in this chapter of the Bushfire Legal Help Handbook is intended to provide general information on legal topics, current at the time of first publication. The contents do not constitute legal advice, are not intended as a substitute for legal advice and should not be relied on as such. You should get legal advice in relation to your individual circumstances and any particular matters you may have.

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