

When a person dies in custody is a 'notifiable incident'. This means that within 30 minutes of them finding the person dead, the incident must be reported to the Commissioner, and the Prison Manager must notify the prison's medical officer and the prisoner's 'next of kin'. All records relating to the death must be preserved. The Victoria Police and Coroner are also notified and a Coroner's inquest must be held.

The Coroner's Court is a court of inquiry. The Coroner overseeing the inquiry may make available to a person with a sufficient interest any statements they intend to consider in the course of the inquiry. This is usually how a deceased prisoner's family can obtain information about how a death in custody occurred.

A person with a sufficient interest in an inquiry may appear before the inquiry and examine or cross-examine witnesses. The person may also be represented by a barrister, a solicitor or, with the permission of the Coroner, by some other person. The sorts of people who have been regarded as having a sufficient interest include relatives of the deceased and, in some cases, community organisations.

Witnesses in a Coroner's inquest have the right to refuse to give evidence on the grounds that they might incriminate themselves. The Coroner must not draw any adverse inference from a person exercising that right. The Coroner is usually assisted by a police prosecutor. The Coroner attempts to establish how the death occurred, the cause of death, and in some cases whether it was preventable. The Coroner can not comment on whether a person is guilty of a criminal offence or liable under civil law. This task is referred to the Department of Public Prosecutions.

From a public interest point of view, the Coroner may comment on any matter connected with the death which relates to public health and safety or the administration of justice. This power enables the Coroner to make positive recommendations for change to prevent future deaths. The Coroner gives a copy of these comments to any person holding a significant interest, to the Attorney General, to the Minister, and is public record unless the Coroner orders otherwise.

If a prisoner dies in custody and you think it was because the prison system did something wrong, then you should think about making a statement to the Coroner. You can do this by asking to see the police who are investigating the matter, or you can ask someone from Legal Aid or the Prisoners Legal Service Victoria to help you write up your statement and send it to the Coroner. If the prison system does something wrong and it leads to the death of a prisoner, then all prisoners are at risk, so if you know something about it you should speak up for yourself and for everyone else.

If you are concerned about the status of a Coronial Investigation, you can contact the **Coroner's Court**

on

1300 309 519

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Further information

This fact sheet contains general information only and is not a substitute for obtaining legal advice. If you would like advice regarding a specific problem please contact one of the legal services listed in [contacts](#) or contact the Law Institute of Victoria's Legal Referral Service on 9607 9311.