



MAGISTRATES COURT of TASMANIA

CORONIAL DIVISION

Determination of application to access coronial records dated 20 April 2026 by Deputy Secretary Community, Mental Health and Wellbeing

Introduction

1. This is an application to access coronial records pursuant to the *Coroners Rules* 2006 (the Rules), rule 26. Rule 26 of the Rules governs the principles by which a coronial authority may determine a person's access to a coronial record or records. As a "coronial authority", being the formal delegate of the Chief Magistrate, I am obliged to determine an application for coronial records in accordance with this provision.

2. The full provision is as follows:

26. Access to coronial records

(1) A coronial authority may, in accordance with this rule of court, do any (or any combination) of the following on such conditions as the coronial authority thinks fit:

- (a) give a person access to a coronial record;
- (b) provide a person with a copy of a coronial record;
- (c) deny a person access to a coronial record;
- (d) restrict a person's access to a coronial record;
- (e) prohibit a person from being provided with a copy of a coronial record.

(2) A coronial authority's power under [subrule \(1\)](#) may be exercised –

- (a) at any time during or after the investigation to which the coronial record relates; and
- (b) on the coronial authority's own motion or on the application of a person claiming an interest in that investigation.

- (3) A person is not entitled to be provided with a copy of a coronial record on application unless –
- (a) that person pays the relevant fee prescribed in the [Coroners \(Fees, Expenses and Allowances\) Regulations 2006](#) ; or
 - (b) the coronial authority waives the requirement to pay that fee.
- (4) In deciding whether to give a person access to or a copy of a coronial record on application, a coronial authority may consider –
- (a) whether the person has a sufficient personal or professional interest in the investigation to which the record relates; and
 - (b) whether giving the person the access or the copy is likely to unfairly prejudice the interests or reputation of another person; and
 - (c) such other matters as the coronial authority thinks fit.
- (5) If there is an inconsistency between a decision of the Chief Magistrate and a presiding coroner on any matter under this rule of court, the decision of the Chief Magistrate prevails to the extent of the inconsistency.
- (5A) A coronial authority may not under this rule of court –
- (a) give a person access to that part of a coronial record; or
 - (b) provide a person with a copy of that part of a coronial record –
- that contains information provided by the Council, within the meaning of the [Obstetric and Paediatric Mortality and Morbidity Act 1994](#) , under [section 6A](#) of that Act if the information has been declared by that Council under [section 15A](#) of that Act to be confidential information.
- (6) In this rule of court –
- coronial authority** means the Chief Magistrate or presiding coroner;
- coronial record** means any record held by the court in relation to an investigation and, without limiting the generality of this, includes –

- (a) a document on the court's file; and
- (b) if applicable, a transcript of oral evidence; and
- (c) if applicable, a recording made pursuant to rule 21 ;

presiding coroner, for a coronial record, means the coroner that conducted, or is conducting, the investigation that the record relates to;

record includes a part of a record.

3. The application was dated 20 April 2026 but, for reasons which are unclear, only received by the Coronial Division on the 30th of April at 5.29pm. The named applicant is Jennifer Duncan, the Deputy Secretary Community, Mental Health and Wellbeing, Department of Health (the Department). Ms Duncan's identity and standing on behalf of the Department to make the application is accepted.
4. It is also apparent from the cover page of the application that the Department seeks access to coronial records in its capacity as "*leading the Parliamentary apology for affected families and individuals of the retention of human remains by the R.A. Rodda Museum*".
5. Under the heading "Type of Information Requested" the applicant has ticked the box "a report on the file" as well as the category "any other document". In relation to this second category the applicant states "*Please state List of persons impacted (sic) Rodda Museum Historical retention of human specimens*".
6. Under the further heading requesting details of why the applicant is seeking access to the document or documents, the applicant provides the complete explanation as follows:

"Minister for Health and the Attorney General have requested that a list of those families and individuals impacted by the unlawful retention of human remains by pathologists at R.A. Rodda Museum is sourced for direct contact to occur to invite these families and individuals to the Parliamentary apology to be held on 19 May."

7. Two points should be made regarding anomalies with the application. Firstly, the coronial authority under rule 26 of the Rules has jurisdiction *only* to provide access to records, being coronial records, that are in existence, that are held by the Court and fall within the definition of "coronial record".
8. Therefore, to the extent that this application seeks that the coroner or Coronial Division *create a* record, such as a list of names from existing records, the application must fail. For the coroner to "state a list of persons impacted" necessarily assumes creation of a document by the coroner or the Coronial Division on behalf of the coroner. I therefore dismiss the application to the extent that it requests that the Coronial Division create any document and then provide it to the applicant.
9. Secondly, the application requests a list of "*those families and individuals impacted by the unlawful retention...*".
10. The applicant may not appreciate that it is not the coronial function to divine which individuals or families are "impacted" by any particular event.
11. Under the *Coroners Act* 1995 (the Act), the coroner is required to determine the identity of the "senior next of kin" as that person has a particular status and rights at various points throughout a coronial investigation (see, for example, section 38 and section 26). Similarly, the coroner also must, when required, determine which persons have, by law, a sufficient interest in the investigation (section 52). That is because a person with sufficient interest also has legal entitlements under the provisions of the Act.
12. However, it is no function of the coroner, in response to an application under rule 26 to access coronial records, to attempt to ascertain on behalf of the applicant a category of persons who are "impacted". Not only is this an impermissible exercise for a coronial authority but a coronial authority could not, with this request in the widest terms, even attempt the exercise of determining who is impacted. Indeed, many individuals who are *not* named within the 177 individual files may be significantly impacted. The coroner or Coronial Division cannot possibly be aware of the identity of such individuals. The application is also dismissed on this basis.
13. I will now assume, for completeness, that the application was drafted in a manner able to be dealt with under the Rules by seeking access to existing

coronial records that contain names of persons who have been contacted/family members with respect to each of the 177 cases.

14. In such a case, assuming the applicant has a sufficient professional interest, I would be required under rule 26(4) to weigh various factors set out in (a) to (c). The coronial authority may have regard to a wide range of considerations in exercising this discretion. These include; whether providing personal details contained in a coronial record would unfairly prejudice the interests of the named person or another person, intrude upon their privacy, or cause unnecessary trauma or confusion.
15. A request for personal details (names and contact details) in an application to access coronial records is highly unusual. By far the most common outcome of an application under this rule is that coronial records are provided with personal and sensitive contact details of persons named in the record redacted. I recognise that the applicant is requesting such details for the reason of an official apology, and therefore this application differs from the usual application.
16. Nevertheless, given the highly unusual and sensitive nature of the application, the only appropriate way to provide such information would be for the staff of the Coronial Division to make individual contact with the persons named in the files to seek their permission to have their data, names and details released.
17. Even if the application was framed in precise terms as described, I would not accede to it for the following reasons:
 - The coronial investigation was completely finalised on 8 September 2025 with the findings of Coroner Cooper. The contacts named in each of the files were advised of the conclusion and those persons are entitled to have closure in the coronial investigation without further contact from the Coronial Division. Such correspondence would be unwelcome, confusing and traumatising for a proportion of the contacts.
 - The Coronial Division is not resourced to undertake the lengthy and labour-intensive task of making further contact with 177 contacts, in fact a greater number, for non-coronial purposes in a finalised investigation.
 - The impact of the project upon coronial staff, in terms of workload and trauma, has already been significant. I would deem a further "project"

requiring coronial staff making contact with multiple contacts/family members over a period of at least several weeks to pose an unacceptably high risk to staff health and well-being.

- Access to coronial records containing personal details is not essential to any public apology proceeding.

18. For these reasons, I dismiss the application.

Dated: 6 May 2026 at Hobart, in the State of Tasmania.

Olivia McTaggart
Coroner