

**Centre for Innovative Justice – RMIT University**  
**Submission to the *Coronial Council Appeals Review***

---

26 May 2017

The Centre for Innovative Justice ('the CIJ') welcomes the opportunity to contribute to the Coronial Council Appeals Review.

The CIJ's objective is to develop, drive and expand the capacity of the justice system to meet and adapt to the needs of its diverse users. It is committed to finding innovative and workable solutions to complex problems that manifest in the justice system, and to improving access to justice in the broadest sense.

### **The scope of this review**

This review has the opportunity to address a number of important issues which impact upon parties' access to and experience of the coronial appeal and review processes, including addressing the barriers to appealing coronial findings,<sup>1</sup> addressing the barriers to re-opening an investigation,<sup>2</sup> and the time restrictions on filing an appeal.<sup>3</sup> The CIJ understands that many stakeholders, including families who have experienced the coronial system and been directly affected by these provisions, will be making submissions on these issues.

Though the CIJ supports the broad objectives of this review, which are ultimately aimed at improving access to justice, it is concerned that if this review merely tinkers with the appeal provisions in the *Coroners Act 2008* (Vic), it will have little prospect of achieving more than marginal improvements in outcomes for people who participate in coronial processes.

In order to ensure the issues raised by families are properly addressed, the CIJ encourages this review to:

- carefully consider the needs, broadly defined, of families and other parties who participate in coronial processes;
- address whether those needs can reasonably be met simply by widening the legislative grounds, and/or better facilitating the means of parties, to appeal findings and seek to re-open investigations; and
- recommend the introduction of restorative justice practices, including restorative justice conferencing, to complement established coronial processes.

The broad objectives of the coronial system must be considered as part of this review including the coroner's role, and the function of the coroner's investigation and inquest proceedings in fact-finding and public health and safety. The effective operation of appeal provisions cannot be considered meaningfully in isolation from the coronial system as a whole, or in isolation from the proceedings from which appeals emanate. This review must also consider the circumstances in which appeals arise and the factors that contribute to them. Among these factors, the review must ask whether the needs of families are being met, and if they are not being met, the extent to which this failure drives dissatisfaction and appeals.

### **Balancing the objectives of the coronial system**

The particular focus of this review on appealing findings and re-opening investigations engages a further range of issues for the administration of justice. These include the interests of families, the finality of decisions and the fragmentation of proceedings, as well as the efficiency of the coronial system and consistency of appellate processes for Victorian courts more broadly. There are also a range of parties, other than families, whose needs and interests must be considered.

Dr Ian Freckelton QC, in his 2016 paper, *Minimising the Counter-Therapeutic Effects of Coronial Investigations: In Search of Balance*, highlighted the risks of any perceived tilting of 'the coronial process in

<sup>1</sup> *Coroners Act 2008* (Vic) ss 83, 87(1).

<sup>2</sup> *Ibid* ss 77, 84, 87A.

<sup>3</sup> The limited time in which to file an appeal may affect the ability for parties to obtain appropriate legal assistance in time to reserve their appeal rights. See, *Courts Legislation Miscellaneous Amendments Act 2014* (Vic) ss 66–7, 69. The time in which to appeal a coroner's determination that a death was not a reportable death, to not investigate a fire, or to not re-open an investigation, was reduced from 3 months to 28 days by this Act.

favour of families and without proper acknowledgment that coronial processes and the aftermath of reportable deaths can be adverse in their effects for others as well.<sup>4</sup> He considered that the role of the coroner and the public interest in the integrity of the courts fact-finding and public health and safety roles, ‘must take precedence over consequential distress to parties and witnesses.’<sup>5</sup>

Freckelton suggested that a balanced approach to coronial investigations, informed by therapeutic jurisprudence, could be facilitated by measures such as:

- clarifying the parameters of an inquest early on in the process
- reducing delays
- involving third parties in processes of information during investigations
- creating a non-blaming environment which enables the making of concessions and apologies without the fear of retribution, where possible.<sup>6</sup>

To address the need for improved sensitivity towards the experience of family members, Freckelton suggested further research into the needs of parties (including non-family members) to support both a ‘recalibration’ of coronial approaches and opportunities for enhanced funding of counselling services to address such needs.<sup>7</sup>

The CIJ’s submission to this review is that restorative justice research provides a framework for identifying the needs and interests of those involved in justice systems and processes, and restorative justice principles and processes provide a methodology for meeting those needs. Restorative justice processes may provide families and non-family members with the opportunity to have their needs met in ways that traditional justice processes, including appeals and reviews, cannot.

Coronial processes themselves should be informed by principles of therapeutic justice, restorative justice, and procedural justice to ensure that as far as possible they meet the needs of all participants in the process. The availability of complementary restorative justice processes may also serve to reinforce confidence in the process, and minimise the risks associated with tilting the coronial process in particular directions to meet the needs of particular parties. Nonetheless, families involved in coronial inquests have particular needs, and this review must properly consider and address them.

### **Understanding the needs of families involved in the coronial process**

Freckelton identified ways in which family members are at risk of being adversely affected by coronial processes:

*It has become apparent that disenfranchisement from the process by inadequate communication from a court, by excessive inhibitions on providing information to a court, by lack of legal representation, and by delays and erroneous or unclear findings are experienced as toxic by many family members. Similarly, a failure to respect cultural and religious sensibilities and a propensity to prioritise throughput and resolution of cases over acknowledgment of the sensitive and individual circumstances of a death can arrest and distort*

<sup>4</sup> Ian Freckelton, ‘Minimising the Counter-Therapeutic Effects of Coronial Investigations: In Search of Balance’ (2016) 16(3) *QUT Law Review* 23.

<sup>5</sup> Ibid 24.

<sup>6</sup> Ibid 29. In 2017, the Victorian Ombudsman recommended that the Victorian Government tackle the legal barriers that discourage authorities from apologising, so as to encourage greater use of genuine apologies to resolve complaints and provide better outcomes for authorities and the public. The Ombudsman recommended an amendment to Part IIC of the *Wrongs Act 1958* (Vic): Victorian Ombudsman, *Apologies* (2017) 13. See, Victorian Government, *Access to Justice Review* (2016) (recommendation 4.4).

<sup>7</sup> Ian Freckelton, ‘Minimising the Counter-Therapeutic Effects of Coronial Investigations: In Search of Balance’ (2016) 16(3) *QUT Law Review* 29. See also, Victorian Government, *Access to Justice Review—Report and Recommendations* (2016) vol 2, 505–6 (recommendation 8.6). That Review identified the need for greater support for bereaved families in the coronial process and recommended that the Victorian Government work with the Coroners Court to identify a suitable referral pathway for families to access legal support.

*grief, giving a fillip to anger and a propensity to make accusations and allegations, some of which may be based more in suspicion than in fact. Such experiences can disillusion family members, causing them to doubt the authenticity of the coroner's role and the rigour, thoroughness and independence of a coronial inquiry.*<sup>8</sup>

When the Coroners Act 2008 was introduced, a central concern was to strengthen the response to the needs of families by improving their access to information and involvement in the coronial process.<sup>9</sup> These reforms were driven by the recognition that there was a greater need for families to be involved and informed about their rights and of key events throughout the coronial process.<sup>10</sup>

A 2013 paper by the Federation of Community Legal Centres Victoria revisited the need for coronial reform in Australia. It identified that despite the therapeutic ideals of coronial frameworks, for many families and communities the experience of the process was 'neither fair nor healing.'<sup>11</sup> An underlying issue identified by the Federation was 'a general failure to fully implement the right of families to participate in coronial processes concerning their loved ones.'<sup>12</sup>

Restorative justice researchers have established a framework for identifying needs relevant to victims' sense of justice. While this framework originated in research about the needs and interests of victims of criminal offending in the context of criminal justice processes, it provides a good model for understanding the needs and interests of participants in other justice processes, including families involved in coronial processes. Researchers have identified that those involved in justice processes often have unmet 'justice needs'. 'Justice needs' have been defined to include a need for 'participation, voice, validation, vindication, and accountability'.<sup>13</sup> Restorative justice provides a useful framework for identifying the needs of families. A negative experience of the coronial process may be an indication that a particular justice need has not been met.

### **Negative experiences of coronial processes can be understood as an expression of unmet justice needs**

The table below describes negative experiences families have experienced which arise from justice needs which have not been met by the coronial process.

Coronial system processes that contribute to negative experiences for families <sup>14</sup>	Justice needs/interests that, if met, would improve the experience of families <sup>15</sup>
--	--

<sup>8</sup> Ian Freckelton, 'Minimising the Counter-Therapeutic Effects of Coronial Investigations: In Search of Balance' (2016) 16(3) *QUT Law Review* 23.

<sup>9</sup> This was demonstrated by the introduction of the guiding objectives of the Act and the improvement of services, support and access to information. See, *Coroners Act 2008* (Vic) s 8.

<sup>10</sup> Victoria, *Parliamentary Debates*, Legislative Assembly, 9 October 2008, 4035, (Rob Hulls, Attorney-General). In its report, the Victorian Parliament Law Reform Committee had explored the harm caused by a failure to accommodate the needs of, and provide support for, families, friends and others associated with a coronial investigation: Law Reform Committee, Parliament of Victoria, *Coroners Act 1985* (2006) 422–434.

<sup>11</sup> Federation of Community Legal Centres Victoria, *Saving lives by joining up justice: why Australia needs coronial reform and how to achieve it* (2013) 17.

<sup>12</sup> Ibid 20.

<sup>13</sup> See, K Daly, 'Reconceptualizing Sexual Victimization and Justice, in I Van Fraechem, A Pemberton and F Ndahinda (eds), *Justice for Victims: Perspectives on Rights, Transition and Reconciliation* (Routledge, 2014), 386–9;

<sup>14</sup> Law Reform Committee, Parliament of Victoria, *Coroners Act 1985* (2006) 422–434; Michael S King, 'Non-Adversarial Justice and the Coroner's Court: A Proposed Therapeutic, Restorative, Problem-Solving Model' (2008) 16 *Journal of Law and Medicine* 444–45, 453–54; Federation of Community Legal Centres Victoria, *Saving lives by joining up justice: why Australia needs coronial reform and how to achieve it* (2013) 17–21; Ian Freckelton, 'Minimising the Counter-Therapeutic Effects of Coronial Investigations: In Search of Balance' (2016) 16(3) *QUT Law Review* 6–13, 23–9.

<sup>15</sup> As identified by restorative justice researchers such as: K Daly, 'Reconceptualizing Sexual Victimization and Justice, in I Van Fraechem, A Pemberton and F Ndahinda (eds), *Justice for Victims: Perspectives on Rights, Transition and Reconciliation* (Routledge, 2014), 386–9.

<ul style="list-style-type: none"> <li>- Formality of proceedings</li> <li>- Processes that exclude participation</li> <li>- Delay between the time of death and a coroner's findings</li> <li>- Backlog of cases and resource limitations</li> <li>- Formality of communication from the court: lack of sensitivity and compassion</li> <li>- Lack of understanding about what to expect from the proceedings</li> <li>- Lack of information and preparation prior to the inquest</li> <li>- Limited opportunity to contribute to decisions, such as whether the deceased's name is used in the coroner's findings</li> <li>- Conduct of the inquest: lack of confidentiality and sympathy</li> <li>- Lack of clarity about the role and function of the coroner and other personnel</li> <li>- Lack of regular follow-ups with the court</li> </ul>	<b>Participation</b>
<ul style="list-style-type: none"> <li>- Barriers to having a voice in proceedings</li> <li>- Lack of knowledge about legal rights and the right to representation</li> <li>- Lack of access to free legal representation</li> </ul>	<b>Voice</b>
<ul style="list-style-type: none"> <li>- Lack of opportunity to tell their story</li> <li>- Lack of acknowledgment of their loss</li> <li>- Lack of adequate support services</li> <li>- Funding and access to counselling services</li> <li>- Failure of the court to accommodate cultural and spiritual sensibilities</li> <li>- Carrying out of autopsies in cases where there is no suspicious circumstances</li> <li>- Inability to view or touch the body while it is in the coronial jurisdiction</li> </ul>	<b>Validation</b>
<ul style="list-style-type: none"> <li>- Lack of resolution from inquest findings</li> <li>- Inadequate case investigation or inability to have case investigated by coroner</li> <li>- Unanswered questions and lack of explanation</li> <li>- Inability to say how the death has affected them</li> <li>- Feeling that certain parties have not been made accountable</li> </ul>	<b>Vindication</b>
<ul style="list-style-type: none"> <li>- Steps not taken to ensure similar event will not happen again</li> <li>- Inability to see how recommendations of the court are being implemented and monitored</li> <li>- Failure of coronial decisions to address systemic issues</li> </ul>	<b>Accountability / Prevention</b>

### Access to justice

Improving access to justice is more than just improving appeal rights or providing greater access to affordable legal representation. It is also about ensuring that proceedings are more meaningful - and therefore more effective – and deliver better outcomes for all participants and the community.

When the justice system fails to meet people's needs, people will continue to look to other avenues for redress, such as appeal and review processes, to try to have these needs met. When those avenues are closed to them or are not able to properly meet their needs, people can feel frustrated, disempowered and increasingly dissatisfied with the legal process. Dissatisfaction is likely to drive a sense of injustice. This is a feature of the coronial system.<sup>16</sup>

<sup>16</sup> See generally, Michael S King, 'Non-Adversarial Justice and the Coroner's Court: A Proposed Therapeutic, Restorative, Problem-Solving Model' (2008) 16 *Journal of Law and Medicine* 444–5; Ian Freckelton, 'Minimising the Counter-Therapeutic Effects of Coronial Investigations: In Search of Balance' (2016) 16(3) *QUT Law Review* 4–13.

Traditional appeal and review processes alone are unsuited to meet the needs of families in coronial processes. Appeal processes are more legalistic than the coronial process and provide even fewer opportunities to meet the needs of families. This is why this review needs to consider introducing restorative processes that are more effective at providing meaningful outcomes.

It has been a feature of modern reform in the coronial context to seek to achieve a balance between the needs of families with other important agendas: 'While the coroner's brief is merely to establish 'how' or 'by what means' a person died, families seek to understand 'why' as they attempt to comprehend the death.'<sup>17</sup> Any changes to better meet the needs of families in the coronial system must of course be balanced with the need to maintain the institutional integrity, purpose and functions of the coroner and the safeguarding of procedural rights.

### **Restorative justice**

As the table above suggests, it is possible to understand the negative experiences of families involved in coronial processes as an expression of the failure of the existing process to address their 'justice needs'. Just as restorative justice theory may help to identify the reasons for dissatisfaction with the coronial process, restorative justice may provide an approach to addressing them, complementing the conventional coronial process with significant benefits for participants.

The term 'restorative justice' refers to a broad range of practices which attempt to repair the harm caused by collectively including those affected, in its resolution. Restorative justice involves a process where parties can 'meet together to discuss what happened, why it happened and how to make things right.'<sup>18</sup>

Restorative justice processes can take different forms, but its 'needs-based' approach is focused on healing, accountability, community restoration, and redress for harm and loss caused.<sup>19</sup> Though the terminology and use of restorative justice is often explained in the context of the criminal justice system, restorative justice practices can be incorporated in other jurisdictions to respond to parties' particular needs. For example, restorative justice practices are used in family group conferences,<sup>20</sup> in schools to respond to bullying, and in workplaces to facilitate an employee's return-to work. The CIJ is currently conducting a project to develop and implement a restorative justice conferencing pilot program available to people affected by driving incidents resulting in death or serious injury, some elements of which intersect with coronial processes.

In coronial cases, restorative justice could offer families and non-family members:

*the opportunity of meeting in a safe, non-adversarial environment, of listening to other people's experience of how the situation has affected them, of telling their own story and expressing their own feelings about this situation that may well have affected them deeply on different levels of their life, and, where possible, of reaching an agreement as to any remedial measures to be taken. As in other restorative justice conferences, it offers the possibility of healing and closure to the parties.*<sup>21</sup>

These opportunities are not provided for in formal, legalistic appeal and review processes.

<sup>17</sup> Law Reform Committee, Parliament of Victoria, *Coroners Act 1985* (2006) 424.

<sup>18</sup> Michael S King, 'Non-Adversarial Justice and the Coroner's Court: A Proposed Therapeutic, Restorative, Problem-Solving Model' (2008) 16 *Journal of Law and Medicine* 451.

<sup>19</sup> Centre for Innovative Justice, *Innovative Justice Responses to Sexual Offending – Pathways to Better Outcomes for Victims, Offenders and the Community* (2014) 23.

<sup>20</sup> Family Group Conferences are an established practice in New Zealand's child protection system. See, *Children, Young Persons, and Their Families Act 1989* (NZ) ss 20–38.

<sup>21</sup> Michael S King, 'Non-Adversarial Justice and the Coroner's Court: A Proposed Therapeutic, Restorative, Problem-Solving Model' (2008) 16 *Journal of Law and Medicine* 452.

It is likely that the dissatisfaction of families with the coronial process can affect their willingness to accept its outcome by meeting their own sense of justice being done. In turn, this can be a function of the failure of the coronial process to meet many of their justice needs. It is likely that this failure drives families towards the use of appeal and review procedures, but, unless the needs of families are met either within the process or outside it, an appeal or review is unlikely to resolve the sense of injustice.

### **Restorative justice informing the coronial process and as a complementary process**

The inquisitorial nature of coronial investigations and the inquisitorial nature of the court itself are particularly amenable to the adoption of practices and processes which are informed by restorative justice principles. The Coroners Act 2008 already contains a number of inherently restorative practices, such as the recognition of the value of an apology and the need to provide support and information to family members, friends, community members and other distressed people.<sup>22</sup> A meaningful consideration of the appeal provisions in the Act requires an examination of the ways in which the dissatisfaction of parties with the coronial process can drive appeals, and how this dissatisfaction may be reduced through a practices and processes that are more attentive to the needs of parties, including families, involved in investigations and inquests.

Restorative justice processes, such as conferencing, may also be well-suited to providing a complementary response that is able to address the needs of parties involved in coronial processes and to the circumstances that give rise to investigations and inquests.

In 2008, Michael King proposed the introduction of restorative justice conferencing for use in coronial matters. He proposed a coronial framework that consisted of a dual track model: a general track for matters not destined for an inquest and a complex track for cases likely to require an inquest.<sup>23</sup> King proposed that coroners explore with the parties the possibility of a restorative justice conference following the handing down of their decision for cases on either track, provided facts were not in dispute and issues of responsibility for the death had been settled, so as to help avoid the possibility of confusion or trauma for the parties.<sup>24</sup>

Restorative justice conferencing is one of the more common applications of restorative justice. The overarching requirements for a successful restorative justice conference are parties who are both willing and capable of participating and who are unlikely to be harmed by the process, and a skilled facilitator that can manage the unique dynamic of the conference and can ensure a safe and consensual environment.<sup>25</sup>

King considered that restorative justice conferencing was eminently suitable for use in conjunction with coronial processes provided that there was proper screening for suitability, the process was clearly explained to the parties, there was no pressure placed on parties' participation, and restorative justice conferences were properly staffed and resourced.<sup>26</sup>

It is important to note that restorative justice conferences are generally unsuited to fact-finding exercises. Fact-finding exercises can however be distinguished from the need for some parties to gain a greater understanding of and access to information, and restorative justice conferences can assist in meeting these needs, for example where particular facts or information are not relevant to the scope of the coronial inquiry, but of profound importance for families.

<sup>22</sup> *Coroners Act 2008* (Vic) ss 8, 70. See also, Victorian Ombudsman, *Apologies* (2017) 13. The Victorian Ombudsman recommended an amendment to the *Wrongs Act 1958* (Vic) to tackle the legal barriers that discourage authorities from apologising.

<sup>23</sup> Michael S King, 'Non-Adversarial Justice and the Coroner's Court: A Proposed Therapeutic, Restorative, Problem-Solving Model' (2008) 16 *Journal of Law and Medicine* 446.

<sup>24</sup> *Ibid* 452–3.

<sup>25</sup> See, Centre for Innovative Justice, *Innovative Justice Responses to Sexual Offending – Pathways to Better Outcomes for Victims, Offenders and the Community* (2014) 23.

<sup>26</sup> Michael S King, 'Non-Adversarial Justice and the Coroner's Court: A Proposed Therapeutic, Restorative, Problem-Solving Model' (2008) 16 *Journal of Law and Medicine* 452.

### Expansion of restorative justice in Victoria

The idea that the experience of justice processes could be improved through a restorative justice approach is relatively new in Victoria but is gaining momentum. The 2009 Victorian Parliament Law Reform Committee considered the development of a restorative justice framework in its *Inquiry into Alternative Dispute Resolution and Restorative Justice*. It made specific recommendations about the use of restorative practices in the justice system to achieve a more mainstream approach to restorative justice.<sup>27</sup>

The recognition of restorative justice in this review, and recommendations that reflect its capacity to improve the experience of participants in the coronial process would reflect other recent government initiatives and the work of recent Victorian inquiries. The Royal Commission into Family Violence recommended the development of a restorative justice framework and pilot program for victims of family violence, which is currently being implemented in Victoria.<sup>28</sup> The Victorian Law Reform Commission, in its 2016 report on *The Role of Victims of Crime in the Criminal Trial Process*, recommended the establishment of a statutory scheme for restorative justice conferencing for certain indictable offences.<sup>29</sup>

The CIJ has also undertaken extensive work around the role that restorative justice can play to support mainstream justice processes, including our 2014 report *Innovative Justice Responses to Sexual Offending – Pathways to Better Outcomes for Victims, Offenders and the Community*.<sup>30</sup> Additionally, the CIJ is currently designing and piloting a restorative justice model for the Transport Accident Commission to add to the options available to meet the needs of supported recovery clients, and conducting a review of compensation and enforcement processes for WorkSafe in order to identify opportunities for restorative justice practices to meet the needs of injured workers.

### Conclusion

This submission invites the Coronial Council to consider its inquiry within a broader framework. In formulating its advice, the Council is required to have regard to the interests of families, the interests of justice and the efficiency of the court system. The CIJ considers that tinkering with existing legislative provisions in isolation from a consideration of the broader objectives of this inquiry can only marginally improve access to justice or the experience of families and other parties who participate in coronial cases. Such an approach cannot address the underlying issues to which this review is intended to respond. In short, such an approach is not in the interests of justice, more broadly defined.

The dissatisfaction of families with the coronial process can be understood as a consequence its failure to meet their justice needs. A failure to be responsive to these needs will tend to drive dissatisfaction with the system. It will drive those whose needs have not been met to search for other forums, in this context constituted by inaccessible avenues of appeal and review. However, unless the needs of families are met within or outside the coronial process, an appeal or review is unlikely to resolve the sense of injustice experienced.

A coronial process in which restorative justice influences an approach to meeting these needs is entirely achievable. Justice processes can be more responsive to these needs, and can be implemented in the coronial context through the influence of restorative justice principles. Such principles can influence practices and approaches without undermining the integrity of the coronial and appeal processes, and without tilting the balance of proceedings in favour of particular parties. It is also possible for the justice system to offer complementary and alternative options as an adjunct to the coronial process, when the process is not appropriate for or capable of meeting some of these needs.

<sup>27</sup> Law Reform Committee, Parliament of Victoria, *Inquiry into Alternative Dispute Resolution and Restorative Justice—Final Report* (2009) (recommendations 45–78).

<sup>28</sup> Victoria, Royal Commission into Family Violence, *Report and Recommendations* (2016) vol IV, 145 (recommendation 122).

<sup>29</sup> Victorian Law Reform Commission, *The Role of Victims of Crime in the Criminal Trial Process: Report* (2016) 194 (recommendations 32–6).

<sup>30</sup> Centre for Innovative Justice, *Innovative Justice Responses to Sexual Offending – Pathways to Better Outcomes for Victims, Offenders and the Community* (2014).

The CIJ encourages this review to consider recommending that restorative justice conferencing be available to parties following the handing down of a coroner's decision, as proposed by King. Screening by the coroner as to the suitability of a restorative justice conference could occur following a decision of the court, which can often be the final step in the courts coronial investigation process. For example, screening could occur following:

- the handing down of a coroner's findings following an investigation or inquest
- a coroner's determination not to hold an inquest
- a coroner's refusal to re-open an investigation.

Following a coroner's decision, families and other parties may still want to have an explanation about what happened, why it happened, particularly when the actions of another person or institution brought about, or contributed to, a death. They may also desire to have a conversation about what steps should be taken to prevent a similar event again.<sup>31</sup> Restorative justice conferences provide the opportunity for these discussions and offer another forum or option for parties to have their restorative justice related needs met. People who feel they have been heard and their experiences acknowledged, are much less likely to place demand on other legal processes, such as seeking avenues of appeal or review.

It is important to note that restorative justice conferencing should not prohibit parties from accessing formal rights of appeal and review. Restorative justice conferences can complement appeal and review processes. However, the introduction and timing of such conferences would have to be factored into any decisions regarding how long appeal rights should be observed.

Restorative justice conferences cannot take the place of a coronial investigation or inquest, or substitute formal appeal and review processes. However, conferences can complement coronial processes to enable outcomes that better respond to the needs of all parties, including non-family members. The availability of an alternative, complementary forum may also help to reduce appeals, preserving the finality of coronial findings and improving efficiency, while serving to protect the integrity of the conventional coronial processes, functions and purposes.

There are a range of important objectives in the coronial context which need to be acknowledged, but the needs of families are not being met and this failure is contributing to further demand on the legal system, and dissatisfaction overall. It is critical that these issues are addressed by this review.

---

<sup>31</sup>

See, Michael S King, 'Non-Adversarial Justice and the Coroner's Court: A Proposed Therapeutic, Restorative, Problem-Solving Model' (2008) 16 *Journal of Law and Medicine* 444.