

International Journal for Crime, Justice and Social Democracy



Contested Deaths and Coronial Justice in the Digital Age

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Abstract

This article discusses emergent digital mechanisms that are engaging with, analysing and challenging coronial practice and state talk around contested deaths. Drawing on key examples, the article argues that these mechanisms represent and enable a growing, interactive public dialogue around deaths in controversial circumstances, which has the potential to shape how we might understand aspects of death justice and knowledge about the dead and their bereaved in the digital age.

Keywords

Contested death; coroners; inquest; bereavement; digital media.

Please cite this article as:

Scott Bray R (2020) Contested deaths and coronial justice in the digital age. *International Journal for Crime, Justice and Social Democracy* 9(4): 90-103. <https://doi.org/10.5204/ijcsd.1692>

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ISSN: 2202-8005



Introduction: Contested Deaths in the News

This article argues that emergent digital initiatives represent new mechanisms to challenge state talk about contested deaths in the context of coronial proceedings. These include public databases, live tweeting of inquests and podcasts, which together support an increasingly interactive public dialogue around deaths in contested circumstances. As very public treatments of the dead, their bereaved and the coronial investigations they face, these initiatives contribute to reshaping how we might think about and understand aspects of death justice in coroners' courts. The coronial context is critical because state talk around contested deaths is on full display at inquests (see e.g., Pemberton 2008; Razack 2015; Scraton and Chadwick 1987; Sim 2004) and finds resonance in media practices. The media plays a key role in how deaths in contested circumstances are represented; the corollary of this, as Ryan Erfani-Ghettani has stated, is that 'the media shares no small part in denying justice for the bereaved' (2018: 255; Hogg 1988; Scraton 2013). While alternative accounts might be promoted through media that question state talk, these are considered rare (Pemberton 2008: 256). This article argues that such infrequency is changing in the digital age, as is the nature of these 'alternative accounts'. While it focuses predominantly on the Australian context, this research has relevance for other coronial jurisdictions such as the United Kingdom (UK).

In Australia, the significance of considering digital practices around contested deaths in the context of coronial inquests is illustrated by the history of media reporting on Indigenous deaths in custody, which has deployed and amplified state talk (Birch 2004). This was an issue specifically addressed by the Royal Commission into Aboriginal Deaths in Custody (RCIADIC)—established in 1987 to investigate the high numbers of Aboriginal deaths in custody—which has led to material changes in Australian journalism (Cunneen 2018). Since the RCIADIC, the development of Indigenous media has 'provided a powerful source in questioning misinformation within the mainstream media portrayal' (Porter 2015: 299). However, this has not signalled an end to racist portrayals, which, as observed by Chris Cunneen, have not abated but flourished with the growth of social media (2018: 295). Amanda Porter has noted that, despite continuing Indigenous resistance to police brutality in Australia (as evident in national actions), the mainstream media resort to moral panics about this resistance rather than tackling racial politics and the profoundly unsettling, ongoing matter of Indigenous deaths in custody (Porter 2015).

The question emerges as to whether the representational ledger around deaths in contested circumstances can be balanced in the digital age through both established institutional means, such as the media, or informally online via digital media, both of which can amplify the voices of affected communities. This article examines different approaches that give access to voices, experiences and data in the public domain to add to the growing research on digital justice—for criminologists, this tends to mostly concern criminal rather than coronial justice. The article proceeds as follows: Section 1 surveys the coronial jurisdiction and digital developments over the past two decades; Section 2 identifies evolving forms of coronial publicity in the context of emergent digital initiatives that privilege the dead and their bereaved. These initiatives include online databases, live tweeting of inquests, podcasts and integrated virtual cultures, which operate as key mechanisms in the contestation of state talk following contentious deaths. The section discusses the critical issues before providing concluding comments.

1. The People's Court: Inquests and Open Justice in a Digital World

Coronial inquests are inquisitorial, public, fact-finding hearings directed towards ascertaining the identity of the deceased and the time, place, cause and circumstances of death. These facts are often referred to as the 'who, when, where, what and how' of death; however, this categorical listing belies the sometimes controversial work of coroners, the facts they find and the processes through which they find them. There exists a potential for inquests to determine the truth of death through a process of public scrutiny, which has at its heart the prevention of avoidable death through the making of recommendations. However, this perspective must be balanced by acknowledging the damage wrought by coronial processes, including post-mortem practices, delays in inquests, adversarial inquest tactics and inequality of legal representation, which families, activists, campaigners, governments and practitioners have sought to

address through reform. There are also countervailing interventions provided by scholarship and activism querying the evolution of white law, which question the possibilities for justice in settler colonial nations where racialised deaths and investigatory practices—including coronial inquests—organise death knowledge and dispense justice from within the logic and structure of the settler state (Giannacopoulos 2019; Perera and Pugliese 2016; Razack 2015).

Over the past two decades, coronial law and practice in Australia, but also in New Zealand and the UK, have been subject to legal and policy reform aimed at increasing recognition of the rights and role of families, respect for cultural beliefs and practices, the role of prevention and the importance of communication with the public. Central to this latter aim is the accessibility of coronial information, such as coronial findings, which has formed a key aspect of the modern publicity around coronership, underwritten by the principle of open justice (Scott Bray 2012). At its most rudimentary, this can be interpreted as coroners' courts maintaining a website that publishes coronial findings and basic jurisdictional information. However, while common principles—such as open justice—span jurisdictional boundaries, they find very different expressions throughout Australian states and territories.

All Australian coroners' offices now have some form of internet presence; yet, the nature of this is entirely inconsistent. Some coroners' courts have standalone websites, while others are under umbrella court websites. The internet availability of coronial information has a statutory basis in Victoria, where mandatory internet publication of findings and responses to coronial recommendations applies, but other jurisdictional approaches are partial and varied. Queensland provides robust access to the jurisdiction without Victoria's statutory framework, while other state and territories publish incomplete findings for a limited date range, select annual reports and basic jurisdictional information. Across Australia, coroners' offices also diverge on the nature of court listings and the detail provided. Queensland publishes a comprehensive monthly inquest list in downloadable PDF form that details not only case identifiers but also the issues to be considered at inquest, while other jurisdictions provide scant information and digital lists. A new dimension of publicity has evolved to use webpages or dedicated websites for specific inquests, opening up courts to those unable to attend in person by archiving daily transcripts and evidence. While this is nascent practice in Australia, it is well developed in the UK for high-profile cases (see Scott Bray 2013).

The inquest into the death of Ian Tomlinson—a 47-year-old newspaper vendor who was unlawfully killed by a police officer during the G20 protests in London in 2009—highlighted that evolving coronial bureaucracies now operate in a wider culture of digital literacy, one with an established appetite for court reporting. Ian Tomlinson's inquest proceeded with a dedicated website in a distinctively responsive media culture that innovated inquest reporting for 'millions of virtual onlookers' via rolling real-time blogs and Twitter (Greer and McLaughlin 2011; Scott Bray 2013). The case marked a watershed moment for the media industry around contested death inquests, which has had knock-on effects in Australia, most notably during the inquest into the deaths arising from the Lindt Café siege in Sydney. Contemporaneous media reporting—tweeting, live blogs and online articles—was complemented by *The Guardian's* 'Sydney siege inquest recap' podcast; the inquest had a discrete New South Wales (NSW) Coroner's Court webpage that published inquest material and the opening remarks to each hearing segment were televised, which included evidence such as CCTV footage.

However, differences in offsite access to inquests raise questions about the accessibility of particular cases and their perceived public interest. At the time of the Sydney siege inquest, the inquest into the death of Ms Dhu was proceeding in Western Australia (WA). Ms Dhu, a 22-year-old Yamatji woman, died in custody after being arrested for unpaid fines, despite being seriously ill with pneumonia and septicaemia. Ms Dhu was neglected by both police and hospital staff, who ignored her pleas for help. The coroner described police conduct as 'unprofessional' and 'inhumane', finding that Ms Dhu's death was preventable. However, like most other Australian inquests, Ms Dhu's inquest was not live streamed; other than the coroner's finding, no formal inquest material is archived online. Ms Dhu's family asked the coroner to release CCTV footage of Ms Dhu in custody, but the coroner's decision was held over until the day of the findings. Ms

Dhu's inquest was robustly reported by *The Guardian*, across Indigenous media, radio and social media and live tweeted, with a now significant online trail of insights into what happened to her and also what occurred at her inquest (see e.g., McQuire 2016). Notwithstanding that attention to Ms Dhu's inquest has subsequently led to transformative media practices, as discussed in the following section, public access to inquests is not consistent.

While coronial jurisdictions variously support a digital presence, this evolving publicity and degree of openness are not sufficient—public scrutiny is also critical to court practices (Moran 2014: 144; McIntosh 2016). Although the media have always played an instrumental role in the public scrutiny of courts, in an age of declining public courtroom attendance, coupled with shrinking public galleries and the rise of a new media ecology (Gies 2016: 226), the media now assume a pivotal place in the shape any 'live' public scrutiny takes (see Moran 2014: 144). Citing John B. Thompson's term, Les Moran identifies contemporary public engagement with courts as a form of 'mediated quasi-interaction' (2014: 144), where communication media reorder public interaction with the courts. I extend this to new media practices and inquests in the following section; however, it is crucial to note that research on open justice, media reporting and public participation predominantly focuses on trial practices in civil or criminal courts rather than inquests in coroners' courts. Sam McIntosh states that open justice in inquests should be understood very differently to civil and criminal justice contexts, where it is typically considered to be a procedural principle and an instrumental aid to ensuring a fair trial (2016: 144). Unpacking open justice in the context of UK coroners' inquests into use-of-force deaths at the hands of the state, McIntosh argues that open justice is associated with 'a need for accountability regarding *the subject under investigation*' (2016: 144, emphasis in original). For McIntosh, examining openness within inquests is too narrowly conceived; we need to consider 'the practice of openness as manifested *through* inquests' (2016: 142, emphasis in original), thinking about when an inquest is held, its scope and how it is open to public participation, which extends openness beyond the court-media relationship.

McIntosh links openness and inquests to justice via acts of recognition, which acknowledges individuals as rights bearers and valued members of a community who are harmed following deaths at the hands of the state. Thinking about justice as recognition entails, for example, considering the ways in which families and their communities are recognised as having distinct interests in the inquest process, in addition to understanding the harms of misrecognition that result from inadequately responding to a death (McIntosh 2016: 151–152). It also establishes the different but essential interests of the broader public and 'the right to participate as an informed citizenry in wider debates about the use of force by the state' (McIntosh 2016: 152). For McIntosh, inquests can be adequate responses to deaths at the hands of the state because they are public proceedings that create official narratives and have relatively broad scope; further, families can attend and participate, representing both their interests and community and wider public interests (2016: 158). While acknowledging that questions arise about whether these interests are adequately recognised in practice, McIntosh argues that framing recognition seriously in the coronial context can have practical effects, such as to shore up arguments for greater legal aid for families at inquests and motivate changes in process (2016: 158).

Ostensibly, 'justice as recognition' (McIntosh 2016: 152) is significant for a jurisdiction that has increasingly sought to recognise the rights and roles of bereaved families in death investigation. In the new media ecology, there are ways of engaging with inquests that enjoin traditional ideas of open justice with the elements of openness and justice as recognition that McIntosh identifies, some of which align with and promote the interests of bereaved families. While these initiatives might not cushion the harm of injustice, and indeed act as extra-legal recognition of families and communities, questions emerge as to whether and how the immediacy and social connectivity of such media have any relationship to justice outcomes in the coronial context. Significantly, a number of emergent digital initiatives privilege recognition by foregrounding the deceased and bereavement stories, often within or alongside the inquest process. These initiatives include online databases, live tweeting of inquests and podcasts, which operate as key points in the contestation of state talk following contentious deaths.

2. Digital Sites of Contestation

A number of digital initiatives, including interactive maps, databases and Facebook pages,¹ now exist that respond to gaps in official data and the recognition of different deaths. By documenting specific contexts of dying and killing—such as deaths involving police, deaths at the border, family violence deaths or the deaths of homeless people—such initiatives highlight that counting and classifying a death is a translation that has social, legal and political meaning; they contest political inertia around death. Such datasets also indicate that the weight of death is not restricted to enumeration but extends to properly investigating, understanding and documenting the circumstances of death. The initiatives discussed in this section reckon with the context of contested deaths and the inquest process. Digital databases are discussed first, followed by live tweeting and, finally, podcasts and their integrated virtual cultures.

Digital Databases

Three major database initiatives that tackle contested deaths were launched in Australia in 2018: the *UQ Deaths in Custody Project*, *The Guardian's Deaths Inside* database and the *Deathscapes* project. The University of Queensland's *UQ National Deaths in Custody Project*, in partnership with Sisters Inside, is a database developed to mark the 25th anniversary of the RCIADIC that collects information on deaths in custody since the RCIADIC from publicly available coronial findings (Walsh and Counter 2019: 147). The database provides demographic information, including Indigenous status, personal characteristics (such as mental illness), jurisdiction, cause of death and specifics, custodial status and location, coronial recommendations and hyperlinks to coronial findings. The goal is to provide up-to-date public information on deaths in custody and make this available via an accessible and transparent tool to enable research (Walsh and Counter 2019). A similar motivation is behind *The Guardian Australia's Deaths Inside* database, which is an online, searchable database that tracks every known Indigenous death in custody in Australia since 2008. Its necessity emerged when journalists reporting on Ms Dhu's inquest in 2015 were looking for up-to-date statistics regarding the number of Indigenous deaths in custody since the RCIADIC. They discovered a 'vague figure' that they later determined fell well short of reality (Wahlquist, Evershed and Allam 2018), resolving to ascertain a more up-to-date figure. The database draws on coronial findings, media reports, justice department or police media releases and interviews with families. *Deaths Inside* is complemented by *The Guardian's* related reportage on specific cases and issues—including, for example, prone restraint, suicide and coronial recommendations that are unheeded by governments.

Both the *UQ Deaths in Custody Project* and *Deaths Inside* highlight the limitations of official 'up-to-date' mortality statistics regarding contested deaths, including the lags in official data releases on deaths in custody that are compounded by inquest delays resulting in coronial findings being published some years after death. Australia already has a program to monitor deaths in custody—the Australian Institute of Criminology's (AIC) *National Deaths in Custody Program*, established in 1992 as a recommendation of the RCIADIC to examine the nature and extent of deaths in custody, collect and analyse information and report findings. However, it is not a real-time monitoring program because it relies on finalised state and territory justice data; both the UQ researchers and *The Guardian* have noted that AIC reports are infrequent and statistically driven, with 'no detailed analysis of the circumstances of death' (Walsh and Counter 2019: 146; Wahlquist, Evershed and Allam 2018). Responding to the *Deaths Inside* database, the AIC stated that it 'does not support the concept of "real-time" reporting as this would not allow for the validation and cross-checking of data required to produce a robust and statistically accurate report' (cited in Wahlquist, Evershed and Allam 2018); however, ostensibly, the AIC and *The Guardian* are pursuing different aims. *Deaths Inside* asserts that 'Australia should know the stories behind the statistic' (Wahlquist, Evershed and Allam 2018) and, to enable this, draws on information that highlights the information that goes into public knowledge and understanding about contested death, which is not limited to death data or official statements but also involves and relies on families and communities. It recognises that inquest findings are crucial records, but that they do not fully reveal the work of coroners and inquests or the labours and experiences of families who must wait for and then endure them.

Significantly, the UQ and *The Guardian* databases engage with and rely on coronial processes or records to make contested deaths more visible, which is a significant achievement. They have created new datasets hitherto lacking in the public space, with coordination of coronial information that could otherwise only be accomplished by exploring each state and territory coronial website—a wholly unsatisfactory state of affairs in a nation that espouses death prevention as the aim of its coronial systems. These are also free, accessible public databases, unlike the National Coronial Information System—a collection of coronial data for Australia and New Zealand. Both databases reflect not only frustration about the lack of coordinated, transparent and accessible coronial information but also the promise of the coronial recommendatory role and its reality. Both initiatives call attention to coronial issues that have been documented by researchers for decades without any traction (Watterson, Brown and Mackenzie 2008). Publishing findings on coroners' court websites might serve open justice, but it does not expose the injustices endured along the way or produce an analysis of trends and patterns of harm. In such a 'digital swamp' of coronial data, accessibility is 'prioritised over intelligibility' (Moore, Clayton and Murphy 2019: 16). These database initiatives highlight that, despite Australia's national coronial prevention talk, there has existed a distinct lack of ease in interrogating coronial data; access to coronial findings is a crucial first step, but these must also be interrogated to function as preventive records.

Eschewing enumeration, the *Deathscapes* site is a multi-layered, case-based and community-focused archive of Indigenous and racialised custodial deaths in the settler states of Australia, the United States of America (USA), Canada and the UK and Europe as origin sites, created by an international team of researchers, advocates and activists. By documenting the lethal histories and legacies of settler states, *Deathscapes* privileges the lives and contributions of the dead that echo in the voices and experiences of the bereaved and their communities. It demands time and attention to follow its stories, drawing on a range of material, including media reports, community resources, songs, videos, photographs, poetry, artworks, interviews and institutional resources, including coronial findings. All these elements are enfolded in a critical discussion that tracks the carceral industry along timelines stretching back into history and across borders, producing a global record of the ongoing violence of settler colonialism.

Significantly, *Deathscapes* includes a series of 'Daily Dispatches' from inquests—contemporaneous inquest notes detailing the coronial process and its impacts on families and communities, such as the torturous replaying of death scene evidence in court, the micro-aggressions of state actors and monolingual law. These dispatches are pointed, critical commentaries on the inquest process, its techniques and technologies, which highlight the difficulties that bereaved families and communities face following contested deaths. They also contextualise the inquest in a discussion of the person who has died, honouring their humanity, and consistently name the racialised politics of custodial practices and systemic issues at work, drawing the causal parameters of fatality much wider than coroners do. The database also has a Twitter handle, periodically bringing attention to the case studies after deaths in mirrored contexts, highlighting that the prevailing lesson of racialised custodial deaths is not just that they repeat, but that this repetition also involves coronial processes in a damaging circuit (Whittaker 2018a). The Daily Dispatches perform key distillation work, emphasising that a just focus on contested death demands that proper scope be drawn.

Live Tweeting

Any discussion of 'real-time' monitoring of contested deaths and inquests finds its apotheosis in live tweeting. The use of live text-based communication is growing in the coronial jurisdiction, to the extent that the Chief Coroner of England and Wales issued a *Coroners and the Media* guidance (2016), noting that coroners are to be guided by the principle of open justice. It is widely understood that the open justice principle opens courts to the public and enables journalists to report on proceedings and inform the public, who are unable to attend in person (Krawitz 2013). The public right to access the courts is served by the media and, increasingly, this right is enabled by new rites of access, including the use of social media (Scott Bray 2013). However, in allowing live text-based communication from journalists and legal commentators 'for the sole purpose of fair and accurate reporting' (Chief Coroner England and Wales 2016: 4) but

requiring other members of the public to apply for permission, the guidance highlights how courts are slow to contend with members of the public who transmit text-based communications from court (Puddister and Small 2019; Wallace and Johnston 2015). Coroners' courts in Australia provide little to no information about private citizens' capacity to tweet from courts, directing their guidelines to journalists. In the criminal context, Leah Findlay notes that, just as court reporters' use of social media has increased, so too has the rise of 'citizen journalists' (2015: 238), which is also true of inquests. While such practices might be seen to destabilise the centrality of the established news media, as will be discussed shortly, they not only can complement media reporting, or provide a necessary corrective to mainstream reporting about contested deaths, but also offer critical insights into inquest process and what families contend with, tapping into ideas around media justice (Gies 2016) and, ostensibly, recognition. Vague guidelines—with a limited view of who tweets or in fact who 'journalists' (Johnston and Wallace 2017) and, indeed, 'the public' are (Puddister and Small 2019: 210)—do nothing to assist the courts moving forward, especially when text-based communication is seen by coroners themselves to support the open justice principle.

Key examples include the live tweeting of UK inquests into deaths of people held in care, including people with a learning disability, in a mental health unit or under psychiatric care. A number of inquests in England have been live tweeted by George Julian, following @LBInquest, the 2015 inquest into the death of 18-year-old Connor Sparrowhawk—Laughing Boy, as he was known—who had autism, learning disabilities and epilepsy and who died in a National Health Service Trust facility after having a seizure in the bath.² The inquests have dedicated account handles, providing an uninterrupted stream of insights into evidence, the inquest process and the jury or coroner's findings, often with photographs uploaded of narrative verdicts that, unlike Australian findings, are not available online. They also provide families' responses to the inquest conclusions. Significantly, live tweeting brings attention to not only the inquest process but also the deaths investigated, performing a key publicity role regarding the premature and avoidable deaths of people with learning disabilities or mental ill health, whose deaths would otherwise be determined as 'natural causes'—without further scrutiny of the failed care circumstances of their deaths (Ryan 2019). While these inquests are live tweeted at the request of or with the support of families, they aim for a factual record. However, these Twitter accounts often document the other facts of contested deaths—such as the struggle of families, who often have to fight for years for an inquest, at considerable cost—in addition to providing contextual links to broader matters: for example, public campaigns such as the UK charity INQUEST's campaign for automatic legal aid for families following state-related deaths.

Other inquests have been live tweeted using discrete hashtags. A significant Australian example is the live tweeting of the inquest into the death of Tanya Day, a 55-year-old proud Yorta-Yorta woman. In December 2017, Tanya Day was asleep on a train to Melbourne to visit her pregnant daughter when police arrested her for being intoxicated, despite the RCIADIC recommendation to abolish the offence due to discriminatory policing of Indigenous people. Tanya Day died in hospital, 17 days after sustaining head injuries from falling in the police cell, and the inquest into her death was held in Naarm, Melbourne, in August–September 2019. It was extensively live tweeted by *The Guardian*, Indigenous media including *National Indigenous Television* (NITV) and a community of Indigenous legal practitioners, academics, activists and writers—mostly women (Bond 2019)—and re-tweeted by a wider community of supporters, ensuring that Indigenous voices and perspectives were prioritised in contemporaneous social media commentary on the inquest.³ These sovereign voices added broader context to the inquest, such as insights into the policing of Indigenous communities, and deconstructed the inquest process by interrogating the language used in court, witness demeanour, lawyers' representation of events and questionable legal tactics. In other words, these voices pushed back from inside the courtroom, broadcasting a critical retelling of the inquest, an action that also has implications for how we think through justice as recognition both inside and outside of coroners' courts in a digital age.

As Moran has suggested, contemporary public engagement with courts is a form of 'mediated quasi-interaction' reorganised through communication media, where the public need not attend (2014: 144). However, in the context of Tanya Day's inquest, live tweeting was not merely informational but also mobilised action. Tweets encouraged people to be present at court to show support for Tanya Day's family,

with many packing the court each day. This support was further evidenced by the joining up of the call for justice for Tanya Day with the Djab Wurrung action to defend sacred Djab Wurrung sites near Ararat, Victoria, against destruction by the state government. In the final week of the inquest, the Djab Wurrung rally—at which Tanya Day’s family spoke—marched through the city down to the Coroner’s Court, peacefully occupying the court entrance in an act of powerful solidarity linking colonial violence across its cultural, social and legal spectrums, from deaths in custody to the destruction of heritage, landscapes and sites of Indigenous significance (Watson 2009). Hashtags achieved this contemporaneous connective work between calls for justice on Twitter during Tanya Day’s inquest, and all of these actions—online and on the streets—unflinchingly demonstrated what coroners’ courts in settler colonial societies are criticised for repeatedly failing to do: recognise and respond meaningfully to the harmful, ongoing impact of settler colonialism on First Nations peoples (Razack 2015).

Observing criminal courts, Findlay has noted that live text-based communications move beyond ‘simply replaying events to convey a sense of the process’ (2015: 239), enabling rolling impressions of the ‘peripheral occurrences in and around the courtroom’, which ‘provide insight that is typically not available through traditional reporting’ (240). The live tweeting of inquests is a paradigmatic example of how this communication enables insight into the ‘fact-finding’ inquest process. Through these practices, the public learns, to different degrees and across assorted inquests, about the other—brutal—facts at the heart of this process: the adversarial life of the inquisitorial court; the work, words and techniques of lawyers; and the demeanour of state witnesses, some of whom cannot offer any show of contrition or compassion in the face of avoidable death. We are taught that inquests can proceed at insensitive times—for instance, scheduled around the birthday of those who have died. We absorb legal jargon and concepts, realising that sometimes they move too fast for the public or are inaudible to the public gallery, which is separated from the exclusive body of the court reserved for legal players and their closed conversations. Also on display are the dull moments of coronial legal process and the parsing of details: the steady and polished courtroom etiquette practised among failing technologies and intermittent delays. We see technology deliver overwhelming horror to the court when projecting death scene images and sounds. We see lawyers laughing, grinning and exchanging in-house jokes, seemingly inured to the presence of bereaved families and their communities. We learn how fatal injury is slowed to terrifying pieces and disturbing detail; we witness the violence of inquiry as the bereaved are subject to repeated audio and visual evidence of the last moments of their loved one’s life, are subjected to different iterations of that evidence and consistently, staunchly, attend court. For the public who do not attend coroners’ courts, these undeniable facts about inquests are offered up through a contemporaneous online record.

The value of live tweeting inquests is not limited to its capacity to transmit these terrible details. Inquests involve families, who change the mood in court with their reflections, memories, and their resistance (Razack 2015: 8), surrounded by community and immense solidarity. During Tanya Day’s inquest, live tweeting and blogging ensured that solidarity—and community—was visible far beyond the courtroom. For example, there were moments during the inquest when the legal history of police detention practices was discussed and tweeting commentary was handballed to and taken up by community lawyers to explain. This bouncing around of knowledge, insight, opinion and reflection was informative, expert and community-driven by Indigenous women (Bond 2019). People were encouraged to follow First Nations voices tweeting about the inquest and, on the final day, to add their support to the online space so that #JusticeForTanyaDay would trend. Journalists Madeline Hayman-Reber and Calla Wahlquist tweeted daily evidence, offering crucial contextual commentary on reactions in the public gallery, witness demeanour and integrated reporting of the Djab Wurrung rally. Wahlquist was part of *The Guardian* team who developed *Deaths Inside* and has reported on and live tweeted a number inquests into the deaths of people in custody, which informed her inquest tweets; she compared moments in Tanya Day’s inquest to that of Ms Dhu’s, voiced frustration at lawyers’ questioning techniques that made it hard for her to distil information and called up relevant RCIADIC recommendations when tweeting about a police investigator’s evidence. These form significant contributions to the contemporary publicity of inquests, joining up justice efforts by gathering familiarity and expertise regarding inquests into deaths in contested circumstances and sharing this insight with the broader community in real time. Critical voices build momentum. When

the lawyers returned to court in November 2019 to make final submissions to the coroner in Tanya Day's inquest, the community was once again there, ready and critically tweeting and engaging with oral submissions. This justice work draws the public to inquests in new ways, a point that is expanded upon below.

Podcasts

A further development in relation to public space and inquests is podcasting. Typically, podcasts that engage with criminal justice-related issues are categorised as 'true crime'; however, this distracts from their contributions to thinking through coronial work. In fact, many of these podcasts rely on and scrutinise coronial work and its outcomes and, in some cases, have even exerted pressure to enact coronial reform or reopen coronial cases. Key Australian examples include the 2016 Fairfax media podcast, *Phoebe's Fall*, detailing the 2010 death of 24-year-old Phoebe Handsjuk. The coroner determined that Phoebe Handsjuk died after accidentally falling down the garbage chute of an apartment building in Melbourne, a conclusion with which Phoebe Handsjuk's family disagreed. The podcast revealed the legislative and financial prohibitions on the family's ability to appeal the coroner's finding. Ultimately, *Phoebe's Fall* and accompanying media coverage led to a review by the Coronial Council of Victoria of coronial appeal rights (Martin 2019: 56), which recommended legislative amendments to provide more clarity and options for families. The Australian Broadcasting Corporation (ABC) podcast *Trace*, which concerned the unsolved 1980 murder of Maria James in Melbourne, joined the push for reform in Victoria, drawing attention to the coroner's powers to reopen historical cases under contemporary legislation (Brown 2018).

Other states and territories are following suit by pursuing justice outcomes not only in the criminal but also the coronial context after podcasts alert the public. The Canberran podcast *Losing Paul* details the 2010 death of 21-year-old Paul Fennessy from an overdose of prescription medication. The podcast and associated serialised media coverage explored his mother's fight for an inquest and the issues she faced. Subsequent media reports have detailed her joint efforts with other mothers to reform the Australian Capital Territory (ACT) coronial system, making reform submissions on specific issues including inquest delays, legal costs, a lack of family liaison and the absence of effective national oversight of coronial recommendations (Burdon 2018; Coronial Reform Group 2019). In NSW, the ABC podcast *Blood on the Tracks* concerned the 1988 death of 17-year old Mark Haines, a Gomeri teenager, outside Tamworth. Following this podcast, Mark Haines's death and the deaths of three other young Indigenous men in similar circumstances were referred to the NSW State Coroner (NITV 2019). ABC followed *Blood on the Tracks* with *Last Seen Katoomba*, about the 1998 disappearance and suspected death of 19-year-old Belinda Peisely, which drew extensively on the inquest recordings of Helen Barrow, who produced the ABC documentary *Who Killed Belinda Peisley?* These podcasts are joined by *Breathless*, developed by *The Guardian* and *Radio 2SER* and launched when the inquest began into the NSW death in custody of 26-year-old Dunghutti man, David Dungay Jr. *Breathless* has tracked the inquest and its adjournments, assuming a type of contemporaneous court reportage, but the listener learns more about David Dungay Jr than could ever be gleaned from the usual pithy court reporting of inquest proceedings. The podcast begins with many moments of David Dungay Jr's family talking about him, recalling his characteristics, his relationships—his life. The listener encounters him, his family and their love for him, and also their painful bereavement and what it has entailed, including having to deal with coronial death investigation practices.

Breathless is one part of *The Guardian's* integrated reporting of David Dungay Jr's death in custody.⁴ What is noteworthy about such podcasts is their extended online life, where media coverage of contested death broadens beyond the headlines and finds different expression in the virtual cultures of photo essays, news reports, videos and images, which voice compassion for the person who has died, and their bereaved and their pursuit of justice. The ethical minefield of broadcasting violent death is navigated by journalists who either implicitly or explicitly demonstrate a responsibility to the bereaved by recording the rent left in people's lives by sudden and traumatic death. It is worth acknowledging this. Limited academic research has been conducted into bereaved people's experiences of the coronial system, including the intersectional

dimensions of those encounters. Notable research has examined contested deaths and inquest processes, including the impact of coronial processes on families (Razack 2015; Scraton 2013). As we inch away from academic research, the insights proliferate. The ongoing work by families, activists, advocates, lawyers, campaigners and charities—such as the UK Institute for Race Relations and the UK charity INQUEST—highlights the expertise of everyday knowledge and the lived experience of affected communities, which finds expression in many places and take different forms (see Porter 2019). The examples discussed throughout this section offer alternative sites for thinking about how communities both express and access knowledge about contested deaths and inquests. In the case of podcasts, what they and their additional reporting tell us about contested death and its aftermath encourages us to think beyond their ‘true crime’ facets to recognise what other justice work might be going on and what publics are being created around coronial work.

Conclusion: Contested Deaths and Media Justice

The dead do not stay dead when those who love them are still looking for them, still dreaming about them. The empty space where there was once a brother, once a lover, once a son, still contains the trace of him in the lives of those whose work of mourning never ends (Dauphinée 2013: 123).

Coroners’ courts are routinely described as ‘the people’s court’, where the person who has died is the central figure of proceedings and where publicity is a critical part of scrutinising death and securing open justice. These descriptions do not hint at the complexities behind the investigation of contested deaths, nor do they tackle the differential experiences of families who come into contact with the coronial system. Structural relations bear down on coroners’ inquests, just as they do on the rest of society (Scraton 2002), and the interpretive force of coronial proceedings can do real damage in both the adjudication of the facts and creation of the official record, which is seen to enact ‘ideological closure’ around death (Klippmark and Crawley 2018: 704). Inquests are not immune from the political life of death; deaths do not come before the court free of history—the coronial court is not free of history, either. It has its own way of reading, speaking and writing death (Razack 2015; Trabsky 2019; Whittaker 2018b). Courts are part of a lineage of law, and they are nothing without the people, papers and knowledge that fill them, that design the lines of inquiry, delimit the inquest scope and refine legal strategy, over and over again. The political labour that goes into the ‘search for the truth’ following contested death is incalculable.

McIntosh has noted that, in the UK, for investigations where the state may bear responsibility for death, inquests have a broader scope. This capacity for greater inquest scope is part of the promise of recognition of family and public interests following contested deaths—this is not only relevant to the UK. Australia has also tackled issues of inquest scope, most notably during the RCIADIC, which highlighted the ‘narrow focus’ and ‘tunnel vision’ of investigatory scope around Indigenous deaths in custody, recommending coronial ‘consideration of wider issues implicated in’ deaths (RCIADIC 1991: 4.5.83). How this scope has come to be interpreted in coroners’ courts warrants comment. Analysing how adept inquests are at acknowledging, for example, the legacies of Indigenous deaths in settler colonial Australia, is one way to assess how effectively recognition operates when the investigatory scope is drawn. The deaths of First Nations peoples in custody are some of the most contested deaths in coronial jurisdictions, and researchers are calling out the coronial determination of the deaths of Indigenous people in custody as ‘timely’ or ‘tragic’ and, therefore, ‘naturalised’, by dismantling coronial deployments of ‘history’ (see Klippmark and Crawley 2018; Razack 2015; Rule 2018; Whittaker 2018b). In her findings into the death of Ms Dhu, the WA State Coroner summoned the significance of history and its relationship to the inquest’s scope. In seeming to lay out her approach early, she referred to the RCIADIC and cited the following academic research, which reiterates the RCIADIC’s recommendations around coronial investigations of deaths in custody, including:

... An expansion of a coronial inquiry from the traditional narrow and limited medico-legal determination of the cause of death to a more comprehensive, modern inquest; one that seeks to identify underlying factors, structures and practices contributing to avoidable

deaths and to formulate constructive recommendations to reduce the incidence of further avoidable deaths. The Royal Commission provides a timeless reminder that every avoidable Indigenous death calls upon us to identify its underlying causes, consider Indigenous disadvantage, uncover the truth about the death and resolve upon practical steps to prevent others (Watterson, Brown and Mackenzie 2008: 6).

This bid to assess the underlying causes of death and structures of Indigenous disadvantage has, nevertheless, been understood very differently in coroners' courts. In Ms Dhu's case, it was translated by the coroner as ultimately involving a very short history—the medical and drug history, the personal history—of Ms Dhu. Buried towards the end of her voluminous 165-page findings are comments about institutional racism; however, they drift away from its fundamental connection to Australian settler colonial history to instead take root in 'the social determinants of ill health' that 'very tragically' were 'borne out in Ms Dhu's life' (Western Australia Coroner's Court 2016: 161; Klippmark and Crawley 2018: 704). The reason that findings of 'unprofessional' and 'inhuman' police conduct and below-standard medical treatment—which would otherwise be explicitly labelled *breaches of Ms Dhu's right to life*—do not carry the force they should is that they slip, as Sherene Razack has identified, into a misrecognition of colonialism as a thing of the past (2015: 210) and chronicle 'a story of Aboriginal difference rather than settler complicity' (Razack 2011: 329; Hay 2018; Klippmark and Crawley 2018: 704; Whittaker 2018b). They do not adjudicate the facts of this history correctly or, in truth, at all—they are acutely ahistorical. For years, Indigenous scholars have repeatedly identified that settler colonial history is not confined to legacy; it is also a history of the present (Behrendt 2000; Moreton-Robinson 2007; Watson 2009). Razack adds, in her study of coronial inquests, that 'if we start with the reality of ongoing colonialism, we can better reflect on the inhumanity that such a project requires' (2015: 210), which has implications for not only state violence but also inquests that investigate it. This framework assists in unpacking how a coronial statement about 'inhuman' treatment is ultimately defused by coronial inquiry. Correspondingly, such findings fall well short of dealing with the prevention of avoidable death—which is the declared role of the coroner. It has been left to families and their advocates to push for coronial change so that inquest scope might finally, formally, contribute to justice as recognition in coroners' courts. A key example here is Tanya Day's family, who succeeded in arguing that the inquest scope should include a consideration of the role of systemic racism in her death.⁵

The media representation of contested deaths has led publics to gather around particular narratives that have reiterated stereotypes of those who have died and attacked their communities (Cunneen 2018). This does not stoke the fire of social justice. However, new publics are also gathering. Do these digital initiatives offer a serious corrective to established media practices? Mainstream media interest in inquests can be a double-edged sword; media might reproduce misinformation about death that supports state talk; however, in the absence of media reporting on inquests we might barely know that cases are being heard. The new media ecology challenges this dualistic choice. The development of Indigenous-led media practices, for example, has led to not only more diverse reporting in voice and content but also contestation and digital disruption (Dreher, Waller and McCallum 2018). However, the politics of access and voice are different from the issue of 'listening' (Latimore et al. 2017: 7). Will agenda-setting around contested deaths emerge from digital initiatives? Ostensibly, they constitute key contributions to media justice in the aftermath of contested deaths, which is defined not only by traditional yardsticks regarding privacy, use of sources and journalistic codes of ethics but also now by the 'just distribution of media attentiveness' (Gies 2016: 214). This conception of media justice 'evokes notions of voice and access to important media infrastructures on an equal basis' and includes 'even-handedness in media coverage'—a 'significant lever for social justice' (Gies 2016: 214). The initiatives discussed here are not exhaustive—there are also Facebook pages, online campaigns, crowdfunding and other forms of digital activism bringing attention to contested deaths. The upshot is that evolving digital cultures are changing public engagement with inquests; we can learn much from these treatments of the dead, their bereaved and the coronial investigations they face. They are developing new sense-making practices around contested death and shaping a growing public dialogue around contested deaths and coronial practice, where coroners' courts and coronial findings represent anything but ideological closure around death.

Acknowledgements

Thank you to the editors of this special issue *State Violence: Practices and Responses*, Tobia Fattore and Kate Gleeson, and the anonymous reviewers for their comments.

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¹ See e.g., *The Counted* (USA); *Dying Homeless* (UK) *Deaths at the Border Database* (Netherlands); *Australian Border Deaths Database* (Australia) *Counting Dead Women/ Destroy the Joint* (Australia); *the names of places* (Australia); *Colonial Frontier Massacres in Central and Eastern Australia 1788–1930* (Australia); *The Killing Times* (Australia). See also the work of *Forensic Architecture*.

² See @HandleyInquest (2018), the inquest into the death of 33-year-old Richard Handley; @TozerInquest (2018), the inquest into the death of 36-year-old Danny Tozer; @JusticeforCol (2019), the inquest into the death of 35-year-old Collette McCulloch; @JoeInquest (2019), inquest into the death of 61-year-old Joe Ulleri; and @SashaInquest (2019), the inquest into the death of 20-year-old Sasha Forster.

³ See the blog of daily updates by Alison Whittaker, Meriki Onus, Latoya Aroha Rule and Crystal McKinnon: <https://indigenoux.com.au/aunty-tanya-days-inquest-daily-updates/>

⁴ See Carly Earl's (2018) photo essay.

⁵ See <https://www.hrlc.org.au/tanya-day-overview>; see also the family's submissions in the inquest into the death of Tanya Day at: <https://www.hrlc.org.au/news/2019/11/10/family-of-tanya-day-call-for-police-accountability>

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