

## Episode 45: Summary

**Episode name:** Advocacy in the Local Court, Coroner's Court and Mental Health Review Tribunal

**Guest(s):** Mary Jerram AM

**What area(s) of law does this episode consider?**

Advocacy for legal professionals in the Local Court, Coroner's Court and the Mental Health Review Tribunal (MHRT)

**Why is this topic relevant?**

Knowledge of courtroom etiquette specific to the forum you are appearing in is key for advocates who want to be as prepared as possible for a hearing. Understanding the purpose, function and role of a particular court or tribunal will inform the style of advocacy that a lawyer should adopt while in that forum, which is why this episode explains the intricacies of the Coroner's Court and the Mental Health Review Tribunal.

Mary Jerram AM has had a vast career in the law and presided on many benches, meaning her tips are uniquely insightful and offer a comprehensive perspective into the qualities magistrates and judicial officers are looking for in quality advocates.

**What legislation is considered in this episode?**

*Coroners Act 2009 (NSW)*

*Mental Health Act 2007 (NSW)*

**What cases are considered in this episode?**

*R v Thomas Sam; R v Manju Sam (No. 18) [2009] NSWSC 1003*

- This was the criminal case that followed the 2007 coronial inquest of Gloria Thomas, a nine-month-old baby that died in 2002 from complications associated with a severe eczema condition. The parents had attempted to treat their daughter's condition with natural remedies, and had even taken her overseas for traditional medicine treatment. By the time she was finally taken to hospital, she weighed the same as a three-month-old baby and died shortly after. Ultimately, the parents were both convicted of manslaughter.

*R v Barling, Daniel; R v Lim, Chin; R v Edmondson, Scott; R v Ralph, Damian [2014] NSWLC 24*

- These proceedings were commenced following recommendations made in the coronial inquest of Roberto Laudisio Curti, a 21-year-old Brazilian student who died after being chased by eleven police officers, tasered and sprayed with capsicum spray. In Mary Jerram AM's findings as coroner, she recommended that 5 of the police officers involved face disciplinary action. In the subsequent criminal proceedings, 2 of the officers were found guilty of assault.

**What are the main points?**

- The Coroner's Court and the Mental Health Review Tribunal are both inquisitorial forums. It is not necessary or expected of counsel to act adversarially. The purpose of counsel assisting in the Coroner's Court is to facilitate the inquiry, which requires them to act as the liaison between the

coroner, the police, the family of the deceased, and other parties that may be involved, among other practical duties. In the Mental Health Review Tribunal, the role of counsel is to represent the interests of the patient client.

- For a party to involved in a coronial inquest they must satisfy the coroner that they have a 'genuine interest' in the matter, which must be registered with the court and can include instances where a party is likely to be adversely affected by the inquest.
- The Mental Health Review Tribunal is a quasi-judicial body, meaning its hearings are intended to be more informal than other forums and can include a number of interdisciplinary specialists including the presiding member, legal representatives, social workers, ward nurses, occupational therapists, psychiatrists, members of the treating team and the patient themselves. Time is limited in such meetings, meaning advocates need to come prepared and have a clear idea of what they want. Preparing concise, written submissions beforehand is an efficient way to get your point across.
- Mary's 3 Ps: 1) Be polite, 2) prepared, and 3) purposeful! Politeness should extend not just to the bench and your colleagues, but to the court staff as well. Being prepared means understanding the complexities of your case and being ready for questions that the bench is likely to have. Lastly, it's important to be purposeful in the courtroom in order to be just, quick, efficient and cheap, especially if you are appearing before a Local Court Magistrate who may hear a dozen matters that day.
- Although it may be your job as a defence lawyer to argue for the best possible sentence for your client, it's important to be efficient in front of the bench and understand appropriate sentencing requests.
- Though both the Coroner's Court and Mental Health Review Tribunal are not bound by the rules of evidence, rule analogous to the rules of evidence may be applied for the purpose of procedural fairness.

### What are the practical takeaways?

### Show notes & recommend reading from Mary Jerram AM

Leigh Sales AM, *Any Ordinary Day* (Penguin Books Australia, 2019)

John Abernethy, *Waller's Coronial Law and Practice in New South Wales* (LexisNexis, 4<sup>th</sup> ed, 2010)

[Inquest into the death of Roberto Laudisio Curti](#) (PDF download)

['A guide to coronial services in NSW for families and friends of missing people'](#)