



Department of Justice and Regulation

Secretary



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Your ref: COR 2013 3056

11 SEP 2017

Her Honour Judge Sara Hinchey
State Coroner
Coroners Court of Victoria
65 Kavanagh Street
SOUTH MELBOURNE VIC 3006

Dear Judge

Response to the Coronial recommendations arising from the inquest into the death of Mr Dermot O'Toole

On 8 June 2017, you delivered your findings following the inquest into the murder of Mr Dermot O'Toole by prisoner on parole Gavin Perry, during an armed robbery on 12 July 2013 at a jewellery store in Hastings. Mr O'Toole's wife, Bridget, was also seriously injured in the same tragic incident. You found that Mr O'Toole died from a stab wound to the chest.

Your findings included that while someone presenting with similar circumstances to Perry's would be unlikely to be granted parole today (in light of recent parole reforms), there were opportunities to further strengthen current processes. You consequently made two recommendations, that:

1. the Minister for Corrections explore whether Corrections Victoria and the Adult Parole Board should be granted coercive powers to obtain the health and medical records of offenders, in order that they are accurately informed of all relevant matters when conducting risk assessments for parole applications; and
2. Corrections give consideration to the best manner of integrating random drug testing into the supervision and reporting regime for any parolee subject to a drug and alcohol testing condition as part of their parole order.

The Department of Justice and Regulation accepts both recommendations.

Work has already commenced on exploring the best way for Corrections Victoria to implement a random drug testing arrangement for both prisoners on parole and offenders on other court-imposed orders. It is not seen to be feasible to introduce random testing where urine testing is relied upon, but Corrections Victoria is examining the possibility of employing alternatives to urinalysis, such as the mouth swabs used by Victoria Police in roadside tests of motor vehicle drivers. If such tests are a viable alternative, they would –

- allow parolees and other offenders to be tested on-the-spot at any location; and

- remove the potential for offenders to attempt to provide false, diluted or doctored samples (e.g. by substituting another's urine, or by consuming large quantities of water before providing the sample).

The first recommendation is more challenging for the Department, as it seen that it such powers would almost certainly be contrary to the Health Privacy Principles and would require legislative amendment to the *Health Records Act 2001* and the *Corrections Act 1986*. Notwithstanding this, Corrections Victoria will work with Justice Health and other parts of my Department to prepare detailed advice on the issue for the Minister's consideration.

Please contact me should you require any additional information.

Yours sincerely



Greg Wilson
Secretary